No. 14-1516

In the
Supreme Court of the United States

STEPHEN DUNCAN, Warden,
PETITIONER,

v.

LAWRENCE OWENS,
RESPONDENT.

On Writ of Certiorari
to the United States Court of Appeals
for the Seventh Circuit

JOINT APPENDIX

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The following opinions and orders have been omitted in printing this Joint Appendix because they appear on the following pages in the appendix to the Petition for a Writ of Certiorari:

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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

UNITED STATES OF AMERICA *ex rel.* LAWRENCE OWENS,	)	No. 08 C 7159
	)	Judge Thomas M. Durkin
Petitioner,	)	
v.	)	
STEPHEN DUNCAN, Warden, Lawrence Correctional Center,	)	
Respondent.	)	

Date Filed	No.	Docket Text
04/23/2012	79	Memorandum Opinion and Order Signed by the Honorable Rebecca R. Pallmeyer on 4/23/2012: Mailed Notice (ETV,) (Entered: 4/24/2012)
02/11/2014	153	Memorandum Opinion and Order: For the foregoing reasons, Owens's petition for a writ of habeas corpus is denied, and the court declines to issue a certificate of appealability for any of his claims. Civil Case Terminated. Signed by the

		Honorable Thomas M. Durkin on 2/11/2014: Mailed Notice (SRN,) (Entered: 2/11/2014)
07/29/2015	175	Order: Upon consideration of respondent's status report dated July 21, 2015, the arguments presented to the court at the July 28, 2015 conference, and the papers submitted by respondent for the court's review, it is hereby ordered that respondent's request for an extension of time to initiate criminal retrial proceedings in state court pending a ruling of respondent's petition for a writ of certiorari is denied. Pursuant to the grant of a writ of habeas corpus, petitioner must be released from custody by no later than August 4, 2015, unless, on or before that date, the State of Illinois initiates retrial proceedings, pursuant to the Illinois Criminal Code, in the Circuit Court of Cook County, Criminal Division. Signed by the Honorable Thomas M. Durkin on 7/29/2015. Mailed Notice. (JL) (Entered: 7/30/2015)
07/30/2015	174	Transcript of Proceedings Held on 7/28/2015 Before the Honorable Thomas M. Durkin.

Court Reporter Contact Information: Laura Renke, Laura_Renke@ilnd.uscourts.gov, 312.435.6053. Important: The transcript may be viewed at the court's public terminal or purchased through the court reporter/transcriber before the deadline for release of transcript restriction. After that date it may be obtained through the court reporter/transcriber or PACER. For further information on the redaction process, see the court's website at www.ilnd.uscourts.gov. Under quick links select policy regarding the availability of transcripts of court proceedings. Redaction Request Due 8/20/2015. Redacted Transcript Deadline Set for 8/31/2015. Release of Transcript Restriction Set for 10/28/2015. (Renke, Laura) (Entered: 7/30/2015)

IN THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

LAWRENCE OWENS,	)	Appeal from the
	)	United States District
Petitioner-Appellant,	)	Court for the Northern
	)	District of Illinois,
	)	Eastern Division
v.	)	
	)	No. 08 C 7159
STEPHEN DUNCAN, Warden,	)	
	)	Judge Thomas M. Durkin
Respondent-Appellee.	)	

Date Filed	No.	Docket Text
03/23/2015	36	Filed Opinion of the Court by Judge Posner. The judgment denying Owens relief is reversed. The State is given 120 days in which to decide whether to retry him. If it does not decide within that period to retry him, he must be released from prison. Richard A. Posner, Circuit Judge; Michael S. Kanne, Circuit Judge and Daniel Tinder, Circuit Judge. [36] [6649848] [14-1419] (FP)

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT-CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS	)	Indictment No. 99 CR 25287
VS	)	Before Judge JOSEPH
LARRY OWENS	)	MACELLAIO
	)	Wednesday, November 8, 2000,
	)	Bench Trial

APPEARANCES:

I. HON. RICHARD A. DEVINE, State's Attorney of Cook County, by MESSRS. MICHAEL GOLDEN and WILLIAM DELANEY, Assistant State's Attorneys, appeared for the People;

II. MS. RITA A. FRY, Public Defender of Cook County, by MESSRS. FRANK RAGO and JOHN WILSON, Assistant Public Defenders, appeared for the Defendant.

REPORTED BY
Cherylyn D. Thompson, CSR, RPR, 084-001143

[C3]THE CLERK: Larry Owens.

THE COURT: Mr. Owns, if convicted, you could be sentenced from a minimum of twenty years up to sixty years. It is my understanding at this time after talking with your lawyer you are going to give up your right to a jury trial. That is where twelve people decide the facts of the case, and you want me to decide the case.

THE DEFENDANT: Yes, sir.

THE COURT: Is that correct?

THE DEFENDANT: Yes, sir.

THE COURT: Let the record reflect being represented by counsel, the defendant has waived his right to a jury trial. Any opening statements by either side?

MR. GOLDEN: Yes, Judge.

MR. RAGO: There will be a motion for exclusion and segregation of witnesses.

THE COURT: Mutual motions to exclude. Anybody that will be a witness in the courtroom will have to step outside. Go ahead, State.

OPENING STATEMENT

BY MR. GOLDEN:

Your Honor, we believe the evidence in this case will show that on September 22nd of 1999, Ramon Nelson was a seventeen year old boy, who had the unfortunate chance to [C4]meet Mr. Owens up at Mackie's Lounge located at 15860 Dixie Highway. Ramon Nelson was riding his bike. He was talking with people that he knew in the parking lot. At that time, at approximately 8:30 PM, a witness saw Larry Owens walk past with a baseball bat. That witness is Willie Evans.

He recognized Larry Owens, and he paid no attention to him until he heard what he describes as a sick sound like wood breaking. He looked around the corner and saw Ramon Nelson lying on the ground still on his bike when Larry Owens took the baseball bat and struck him two to three times in the head.

This is corroborated by another witness, Maurice Johnnie, who was also in that area, Judge. He was in a car parked in front of Mackie's Lounge. He had been talking with Ramon Nelson shortly before he was attacked by Lawrence Owens. That happened on September 22nd.

Within a week, Judge, independently both witnesses picked Larry Owens' photograph out of a photo array. Approximately one month later, they identified him in a lineup.

That is what the evidence will show, Judge, and as a result of the brutal attack by Lawrence Owens, Ramon Nelson passed away on September 23rd. At the end of the [C5]trial, we will be asking you to find the defendant guilty of first degree murder.

THE COURT: Okay. Defense, are you going to make an opening statement?

MR. RAGO: Yes, Judge, please.

OPENING STATEMENT

BY MR. RAGO:

Mr. Owens has put this matter in the Court's hands, so I don't have to go through those usual admonishments we give to the jury about proof beyond a reasonable doubt, but what we suggest to the Court is that when you listen to all the evidence and the testimony, what is going to be important is where people were, what could they have possibly seen, what didn't they say that normally you would have expected at this point to be said.

When you look at all those and look at the facts and circumstances surrounding this incident, the facts and circumstances about the actual location, when you look at the nature and manner in which certain people testify and the reasons and motivations that they may have to testify, Judge, again, the State has to prove beyond a reasonable doubt. We believe that the State will fail in this cause.

[C6]That Ramon is dead is a tragedy. The conviction of the wrong man is also no less a tragedy, Judge. We will be asking for a finding of acquittal.

THE COURT: Okay, State, do you want to call your first witness.

MR. GOLDEN: Your Honor, the people will call Barbara Nelson.

1. (Witness sworn)

THE COURT: Have a seat.

BARBARA NELSON,

called as a witness herein, on behalf of the People of the State of Illinois, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GOLDEN:

Q. Ma'am, would you state your name and spell it for the court reporter?

A. My name is Barbara, B-a-r-b-a-r-a, Nelson, N-e-l-s-o-n.

Q. And Ms. Nelson, where do you live?

A. I live in the Markham area in Bellaire Park.

Q. And how long have you lived there?

A. For about three years.

Q. Before that, where did you live?

[C7]A. Before then I lived at – I lived in Harvey. I don't remember the exact address.

Q. How long had you lived in Harvey?

A. For about four years.

Q. Are you employed?

A. Yes, I am.

Q. And who do you work for?

A. I work for a company, the Bradford Exchange in Niles, Illinois.

Q. And what do you do for them?

A. I am a marketing coordinator.

Q. I would like to direct your attention to September of 1999, where were you living at that time?

A. At that time I was living in Markham, Illinois, in the Bellaire Park area.

Q. Who were you living with?

A. My son; Ramon Nelson, and my husband; Cecil.

Q. And how old was Ramon at that time?

A. Ramon was seventeen years old at that time.

Q. Did he have any nicknames?

A. Yes, he had. His friends call him Kermit, because he had large eyes like Kermit the frog.

Q. Could you describe Ramon for us?

A. Ramon was tall, a lot taller than I am, slender, [C8]he was he was just a regular seventeen year old kid. He was nice, playing with the kids all the time and joke and laugh with me, that is about it.

MR. GOLDEN: Your Honor, may I approach?

THE COURT: Go ahead.

MR. GOLDEN:

Q. Mrs. Nelson, I will show you what has previously been marked as People's Exhibit Number 1. Do you recognize that?

A. Yes, that is my son.

Q. That is Ramon?

A. Ramon, yes.

Q. Does that fairly and accurately depict the way Ramon was in 1999?

A. Yes.

Q. I would like to direct your attention to September 21st, 1999, the evening hours, did you see Ramon?

A. Yes, I saw him.

Q. And what was his condition at that time?

A. He was fine. We were laughing and joking when I came from work.

Q. Did you see him in the morning of September 22nd?

[C9]A. Yes, before I left to go to work.

Q. And what was his condition at that time?

A. He was fine when I left to go to work.

Q. Sometime after 8:30 on the night of September 22nd, 1999, did you receive a phone call?

A. Yes.

Q. And after receiving that phone call, what did you do?

A. Someone called me and said that I need to come to Ingalls Hospital, because Ramon had been hurt, somebody hit him in the head at Mackie's.

Q. Did you go to Ingalls Hospital?

A. Yes, I did.

Q. Did you see Ramon that day?

A. Yes, I did.

Q. What condition was he in?

A. He was very bad. A lot of blood and the left side of his face was all swollen and they had him sedated.

Q. Was he conscious?

A. No.

Q. Directing your attention to September 23rd, 1999, did Ramon pass away?

A. Yes, he did. He was pronounced brain dead at [C10]5:30 PM.

Q. Did he ever regain consciousness?

A. No, he never regained consciousness. I never got a chance to talk to him.

MR. GOLDEN: Your Honor, I believe at this time there will be a stipulation between the parties that if we were to show People's Exhibit Number 2 to Mrs. Nelson she would identify it as a photo of Ramon Nelson.

MR. RAGO: So stipulated.

THE COURT: Okay.

MR. GOLDEN: I have nothing further.

MR. RAGO: I have no questions.

THE COURT: Thank you, ma'am. There are no other questions.

MR. GOLDEN: I would ask permission for this witness to remain throughout the proceedings.

THE COURT: Sure, any objection?

MR. RAGO: No objection.

The COURT: You can go sit out in the audience if you want. If you want to grab your purse, if it is back there.

THE WITNESS: My sister has it.

2. Witness excused)

THE COURT: Next witness.

[C11]MR. DELANEY: State calls Maurice Johnnie.

3. (Witness sworn)

MAURICE JOHNNIE,

called as a witness herein, on behalf of the People of the State of Illinois, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DELANEY:

Q. Sir, could you please state your name for the Court and spell your first and last name for the court reporter?

A. My name is Maurice Johnnie, M-a-u-r-i-c-e, J-o-h-n-n-i-e.

Q. Mr. Johnnie, if I can just remind you to just speak up so everyone in the courtroom can hear you.

THE COURT: Talk like you are talking to the lawyer right back there, so we can hear you.

THE WITNESS: All right.

MR. DELANEY:

Q. How old are you, sir?

A. I am forty-eight years old.

Q. And what town do you live in?

A. I live in the south suburbs.

Q. How long have you lived in the south suburbs?

[C12]A. Well, for the past four years.

Q. And before that, where did you live?

A. On the north side of Chicago.

Q. And what do you do for a living, Mr. Johnnie?

A. I am an industrial painter.

Q. How long have you had that occupation?

A. For the past ten years.

Q. Mr. Johnnie, do you remember where you were on September 22nd of 1999, sometime after 8:00 in the evening?

A. I was in the company with a friend of mine, Johnnie Morgan, and another guy. We had pulled up in front of Mackie's where --

Q. Now, when you say Mackie's, what are you talking about?

A. Mackie's is a store, a liquor store on 159th and Dixie Highway.

Q. That is in Markham?

A. In Markham, yes.

Q. You were in a car?

A. Yes, I was in a car.

Q. Whose car were you in?

A. I was in my car.

Q. Who was driving the car?

[C13]A. Johnnie Morgan was driving the car.

Q. And where were you seated inside the car?

A. I was seated in the passenger seat.

Q. Why was he driving your car?

A. It was a friend of mine, and he washes and clean my car, I let him drive it.

Q. And the other person, do you know who that was that was inside of your car?

A. No, he was a friend of Johnnie Morgan.

Q. Where was he sitting?

A, He was sitting in the back seat.

Q. When you -- so you pulled into the parking lot there at Mackie's?

A. Yes.

Q. Is it called Mackie's Lounge?

A. Mackie's Lounge.

Q. Where was the car, where did the car park?

A. Car was parked just in front of the doors of the grocery section of the lounge.

Q. Is there another section of the lounge?

A. Yes, there is grocery liquor store like type area, and lounge area.

Q. Which door or doors were you parked in front of?

A. The liquor store area.

[C14]Q. How many doors are there where you were parked?

A. Well, there are two doors there.

Q. Are they right next to each other?

A. Yes, side by side.

Q. Were you parked facing those doors?

A. Yes, facing.

Q. About how far away were you seated from where those doors were?

A. About ten feet away or little more.

Q. At that time, it was dark out?

A. No, I would not say.

Q. Was it dark out, the sun had gone done?

A. Yes, sun went down already.

Q. Were there lights in the area by the doors?

A. Yes.

Q. Do you remember if those doors were open or closed?

A. Well, they are open.

Q. Now, when you pulled up in front of the doors to the liquor store area of Mackie's, did you get out of the car?

A. No, I did not get out of the car.

Q. Did Johnnie Morgan get out of the car?

A. No, he did not.

[C15]Q. Did the third person in your car get out of the car?

A. Yes, he got out of the car and went into the liquor store area.

Q. And what did you do when he went into the liquor store?

A. Well, Johnnie and I sat down in the car and we were just conversating.

Q. Did anyone come up to your car while you were seated inside the car?

A. Yes, the kid on a bicycle pulled alongside the driver's side of the door and was speaking to Johnnie Morgan.

Q. Did you know who this person was?

A. No, I did not know who he was.

Q. About how old was he?

A. He was about sixteen, seventeen years old.

Q. Was he with anyone?

A. No, he was by himself.

Q. You stated he was on a bicycle?

A. Yes, he was on a bicycle.

Q. How long did he speak to Johnnie Morgan while you were seated inside the car?

A. About three to five minutes

[C16]Q. After that three to five minutes, what happened?

A. Well, he proceeded to ride his bicycle on to the front of the car and across heading --

Q. When you say -- I just want to stop you there for a minute, on to the front of the car or the front of the car?

A. In front of the car.

Q. Now, directly in front of the car you said you were parked in front of the liquor store?

A. Yes.

Q. Is there a sidewalk outside those doors?

A. Yes, there was a sidewalk between the car and the building.

Q. Was he riding his bicycle on that sidewalk?

A. Yes, he was.

Q. As he was passing in front of the car, was he going from left to right or right to left, was he going back towards you where you were seated?

A. Yes, he was coming towards my direction.

Q. Did you watch him as he rode past on his bicycle?

A. Yes.

Q. Now, that area that you describe as the sidewalk in front of the lounge, you stated that it was lit, where [C17]did he go, did you watch where he went?

A. Well, he kept on going for another couple feet. Well, he kept on going, in that area.

Q. Now, what happened, or did anything happen as you saw him continue on down the sidewalk?

A. Well, as he was going down the sidewalk, he turn to turn around and somebody approached him.

Q. When you say he turned around, was he on the bicycle?

A. Yes, he was trying to turn around on his bicycle.

Q. Did he turn around on his bicycle?

A. Actually not, he did not.

Q. Where was he when you said he began to turn around on his bicycle in relation to the doors of the liquor store?

A. About from the door, he would be about eight feet or so away from the doors.

Q. And if you were looking at the doors, would that be to the left of the door or right of the door?

A. Well, I am not too familiar, I mean I am not too good with left or right, but he was little away from the door.

Q. You used your right hand, was he in that [C18]direction?

A. Well, I am the facing door and he was that way.

MR. DELANEY: Judge, for the record he is indicating with his right hand to his right.

THE COURT: The record will so indicate.

MR. DELANEY:

Q. Now, you said you saw someone approaching him, where was that person?

A. That person was coming from the right of me coming towards us then.

Q. Now, was that person walking, on a bicycle, driving, how was that person?

A. He was walking.

Q. Did you see if this person had anything in his hand at that time?

A. At that time I did not see anything in his hands.

Q. What happened as you saw this person approach and you saw the boy on the bike attempting to turn around on his bicycle?

A. Well, I saw that person commence to striking him with something in his hand.

Q. Could you describe what he had at that point?

A. Like a wooden stick, like a baseball bat type, [C19]baseball bat.

Q. Could you describe first of all what you saw and how you saw it?

A. Well, I saw, as the kid was turning around with his bicycle, the gentleman started hitting him in the head with the bat.

Q. Now, when you say you saw him hitting him in the head with the bat, did he have both hands on the stick or the bat that you saw?

A. No, at that time he had one hand, one hand.

Q. How many times did you see him hit the boy on the head, using one hand?

A. Well, twice actually.

Q. After he hit the boy with the bat on the head twice, what happened to the boy?

A. Well, he was coming backwards towards the building, and as he was -- after he got a first shot, he was falling backwards towards the building, and he kept falling, and then he fell into the door of the store.

Q. How far was this from where you were sitting when you saw the man hitting the boy?

A. About ten feet.

Q. Then after the boy fell into the doorway, what happened?

[C20]A. Well, he hit him one more time.

Q. Was the boy on the ground at this time?

A. He was on the ground on his bicycle.

Q. Can you describe how the person hit the boy on the bicycle when he was on the ground?

A. Well, he hit him with both hands. I mean he had both hands on the bat at the time, and it was forceful.

Q. Where did he hit the boy, what part of the boy's body?

A. Well, it would appear to me the upper part of his body then.

Q. At that point you could not tell exactly where?

A. No.

Q. Close to the head?

A. Yes, closer to the head.

Q. And this happened right at the doorway of the liquor store. Do you remember if there were lights on inside the liquor store? The liquor store was open?

A. Yes, the liquor store was open.

Q. Were lights on inside the liquor store?

A. Yes.

Q. After you saw the boy being hit while he was laying on the ground by the man using both hands, what did that man do?

[C21]A. After he hit him, he turned around and went the direction he came from.

Q. Now, that person that you saw first hit the boy on the bike twice with the baseball bat on the head while he was on his bike and then once while the boy was on the ground using both hands, do you see that person in court today?

A. Yes.

Q. Could you point that person out and identify something he is wearing in court today?

A. Well, he is sitting there in the khaki suit.

MR. DELANEY: Judge, may the record reflect the in court identification of the defendant?

THE COURT: The record will so indicate.

MR. DELANEY:

Q. Mr. Johnnie, what did you do after you saw the defendant strike the boy with the baseball bat three times and after the defendant left, what did you do?

A. Well, Johnnie and myself got out of the car, and went over. Well, we looked at the kid. He was

Q. Could you describe to the Judge what the boy looked like?

A. Well, his head was swollen.

Q. What side of his head?

[C22]A. Well, I really can't say which side, but it was swollen, bruised.

Q. Was he, could you tell if he was conscious?

A. Well, he was groaning. He never said a word. He just groaned, groaned all of the way.

Q. At the point you saw this, was he still on the ground?

A. Yes, he was still on the ground.

Q. What did you do at that point?

A. Well, other people came around, and they suggested that we take him to the hospital.

Q. What did you do?

A. Well, at the suggestion, we -- well, Johnnie insisted on taking him to the hospital, so I agreed with it more or less, and they took him to the hospital in my car.

Q. Did you go to the hospital?

A. In my car, yes.

Q. Did you ever see that defendant again that day or that evening?

A. No, I didn't see him that evening.

MR. DELANEY: May I approach the witness, Judge.

Q. Mr. Johnnie, I am going to show you what I have marked as People's Exhibit Number 3 for identification. [C23]It is a photograph. Could you tell us what that is a photograph of?

A. This is a photograph of my car.

Q. Is that the car that you and Mr. Morgan were in on September 22nd, 1999, parked in front of Mackie's?

A. Yes.

Q. Does that truly and accurately represent the way your car appeared on September 22nd of 1999?

A. Yes.

Q. Now, let me ask you one more thing about the car when you were seated inside the car, Mr. Johnnie, was your window open when you saw the defendant attack the boy on the bike?

A. Well, it was slightly cracked. It was not all the way down.

THE COURT: So it was more up than down?

THE WITNESS: More up than down.

MR. DELANEY:

Q. Mr. Johnnie, I will show you what is marked as People's Exhibit Number 4 for identification. What is that a photograph of?

A. Well, this is a photograph of Mackie's Lounge and Liquor Store.

Q. And I am going to hand you a red pen, sir. I am [C24]going to ask you to place an X at the spot where the car was parked as you sat in the car on September 22nd of 1999?

A. (Indicating)

Q. And Mr. Johnnie, I am going to ask you to place a circle at the location where you saw the defendant first strike the boy on the bike?

A. (Indicating)

Q. Can you place a circle around that, sir. I am sorry?

A. (Indicating)

MR. DELANEY: Judge, for the record, the witness has indicated with a circle around an X at that location.

THE COURT: Okay.

MR. DELANEY:

Q. Mr. Johnnie, I am showing you People's Exhibit Number 5 for identification, again what is that a photo of?

A. That is a photo of Mackie's Lounge and the liquor store.

Q. And on that photograph as well, can you place an X in the location where you were parked?

A. (Indicating)

Q. And a circle with an X at the location where you [C25]saw the defendant first hitting the victim?

A. (Indicating).

Q. Also on this photograph, sir, can you place an X over the door where you saw the victim finally, his final resting spot where you saw him?

A. Put an X --

Q. Actually you can put a circle without an X at that location.

A. (Indicating)

Q. Mr. Johnnie, do People's Exhibit Number 5 and People's Exhibit Number 6, do they truly and accurately represent the way that location at Mackie's Lounge appeared on September 22nd of 1999?

A. Yes, I would say it is.

MR. DELANEY: Judge, just to clarify the record.

Q. Mr. Johnnie, the photograph of your car, which I have marked as People's Exhibit Number 3 for identification, you marked -- or you stated that was your vehicle, People's Number 4 for identification was marked by the witness as the place he was parked and the place he first saw the defendant, and People's Number 5 was the photo that the witness marked the parked location, the location where he first saw the defendant striking the victim, and the spot where the doorway where he [C26]ultimately saw the victim.

THE COURT: Okay.

MR. DELANEY:

Q. Mr. Johnnie, you also stated that the area, there was lighting in the area where you saw this all happening, is that right?

A. Yes.

Q. Were there lights on above where you were parked?

A. Yes, there was lights.

Q. I am showing you again what I have marked as People's Exhibit Number 4 for identification?

A. Yes.

Q. Which you have identified. I would ask if you can see if those lights are depicted in that photograph?

A. Yes, they are in the photograph.

Q. I will ask you to mark with this red pen again, if you could circle those lights that you saw that are in that photograph?

A. (Indicating).

Q. As far as you know, were those lights on on September 22, 1999?

A. Well, the area was lit at the time.

Q. Now, Mr. Johnnie, you stated that you took the [C27]boy to the hospital that night with Mr. Morgan?

A. Yes.

Q. Did you later about a week later on September 28th go to the Markham Police Department?

A. Yes, sir.

Q. And at that time, did you speak to Detective White?

A. Yes.

Q. And at that time did he show you some photographs?

A. Yes.

MR. RAGO: Excuse me, counsel. What date was that?

MR. DELANEY: September 20th.

THE COURT: That is at the Markham Police Station, you said?

MR. DELANEY: Yes, Judge.

Q. Now, Mr. Johnnie, at that time, when Detective White showed you those photographs, did you see a photograph of the defendant that day?

A. Yes, a photograph of him.

Q. Did you tell Officer White that was the individual who you saw striking the boy on the bike on September 22nd?

A. Yes, I did.

[C28]Q: Mr. Johnnie, about a month later, on October 27th of 1999, did you again go to the Markham Police Department?

A. Yes.

Q. At that time again, did you speak with Detective White?

A. Yes.

Q. At that time did you view a lineup of some individuals related to this incident?

A. Yes.

Q. And did you pick an individual out of that lineup on that date?

A. Yes.

Q. And was that individual the defendant?

A. Yes.

Q. Before you viewed that lineup, did anyone tell you who the defendant was, or the defendant was there that day?

A. No.

Q. And the person that you picked out of the lineup, was that the same person that you saw striking the boy on the bike on September 22nd?

A. Yes.

MR. DELANEY: Judge, for the record I will show [C29]counsel what I have marked as People's Exhibit Number 6 for identification.

Q. Mr. Johnnie, I am showing you what I have marked as People's Exhibit Number 6 for identification. It is a photograph. Could you tell me what that is a photograph of?

A. Well, this is a photograph of the lineup that I witnessed.

Q. And did you select one of those individuals?

A. Yes, I selected one.

Q. And is that person that you selected, is that the person you that saw striking the victim on September 22nd of 1999?

A. Yes.

Q. And there are numbers over those individuals, those five individuals. Tell us which one is the defendant, the one you picked out on October 27th of 1999?

A. Number one.

Q. Does that truly and accurately represent the way that lineup appeared to you on October 27th?

A. Yes sir.

MR. DELANEY: Could I have a moment, Judge?

THE COURT: Um-hum.

4. [C30](Short pause)

MR. DELANEY: Judge, I have no further questions at this time.

CROSS EXAMINATION

BY MR. RAGO:

Q. Mr. Johnnie, did you talk to the police that night in front of Mackie's?

A. Well, we took the kid to the hospital, and then we came back to Mackie's and there was an officer there.

Q. Did you talk to that officer?

A. Johnnie spoke to the officer.

Q. Thank you. Sir, I need to ask you, please. Did you talk to the officer?

A. No, I did not talk to the officer.

Q. You just saw a young lad get beaten, correct?

A. Yes.

Q. Did you talk to the officer about what you saw?

A. No, I did not talk to the officer.

Q. You did not give the officer a description of who you saw do the beating of the child, a teenager?

A. No, I did not.

Q. Did you talk to the police at the hospital?

A. There was no police at the hospital.

Q. After you went to Mackie's, did you leave [C31]Mackie's at any time and go to the police station before September 28th in '99?

A. What is the question you asked, please?

Q. After you left Mackie's that evening after this happened, and after you say your friend talked to the police, did you ever go to the police station and talk to the police officer?

A. No, I did not.

Q. Before you ever had any contact on September 28th?

A. Tuesday, I went to the police.

Q. Thank you, that was the 28th, I believe?

A. I am not familiar with the date.

Q. Did you give the police a description of the person that you saw hitting?

A. Yes, sir.

Q. What was that description, sir?

A. It was about a male, a black male, about two hundred forty pounds, 6'2.

Q. So big and bulky, right; is that correct?

A. Well, I would say medium.

MR. RAGO: Could I approach the witness?

THE COURT: Go ahead.

MR. RAGO: During the examination, may I have [C32]continuing permission.

Q. I am going to show you again People's Exhibit number 6 for identification, sir, that you said was the people that you saw at the police station?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. And when you looked at that, you picked out the biggest and the bulkiest there, correct, sir?

A. Well, he --

Q. The biggest and the bulkiest, right?

A. Yes.

Q. When you looked at these people, these five people, they were seated, correct?

A. Yes.

Q. So, you didn't go by height, is that correct?

A. No, I didn't go by height.

Q. Now, you said that your friend, who was driving your car, because of friendship, okay, you let him drive the car around, even though you were in it because he helps you with the car?

A. Yes.

Q. Had a conversation with this person for about three to five minutes, is that correct?

[C33]A. Yes, sir.

Q. What were they talking about?

MR. DELANEY: Objection, Judge, relevance.

THE COURT: Overruled.

MR. RAGO: Thank you, sir.

THE WITNESS: Well, the kid more or less was complimenting him on the -- on him driving my car, and what is happening otherwise, you know.

Q. Three to five minutes they are talking about what is happening out there on the street? Were they friends?

A. Well, the kid seemed to be an admirer of him, of Johnnie Morgan.

Q. Do you have any idea of why he held your friend in such regard?

MR. DELANEY: Objection, Judge.

THE COURT: Overruled.

MR. RAGO: Thank you.

THE WITNESS: No, I would not know why.

MR. RAGO:

Q. In fact, the teenager's first word was "what is up" ?

A. Yes.

Q. Did you see where he came from?

[C34]A. It was a crowd of -- it was a little crowd by the side of Mackie's there, and he came from that crowd it seems.

Q. So there was a crowd of people outside when this finally happened, is that correct?

A. On the left side, on the left side of Mackie's.

Q. Right, so there was a crowd of people standing out here?

A. Several people, yes.

Q. More than three our four, right?

A. About four or five.

Q. When was it that you first saw the person that you say struck this teenager as he was coming

from what we have now established from the right side; when did you first see that person?

A. Just before the incident took place. I mean like --

Q. So right in front of the building?

A. Right, right in front.

Q. And we have already established you are seated in your car in the passenger side?

A. Yes.

Q. And you are about eight feet away from the -- eight feet, three feet, how far away are you from those [C35]doors?

A. About ten, or so.

Q. And you say that the lad on the bicycle was about eight feet to your right when there was first contact between who you say struck him, this first incident?

A. No, it was about twelve feet when they first contact, I mean.

Q. So, this person is coming from your right heading towards you, is that correct?

A. Well, towards --

Q. The person who struck the young lad?

A. He was coming towards the kid.

Q. So, he is heading from your right coming closer to your right?

A. Yes.

Q. According to your testimony, his face would be heading towards you?

A. Yes.

Q. You see some incident happen, right?

A. Yes.

Q. You see this lad manage to cover that distance and end up falling in the doors?

A. Yes.

[C36]Q. So, you see both of these people supposedly, correct?

A. Yes.

Q. Traveling another ten or twelve feet where he finally falls in the doorway, is that correct?

A. Well, less than ten feet.

Q. There is a whole bunch of lights across the front of Mackie's, is that correct?

A. Yes.

Q. And to be fair to the Judge in case he doesn't know this area, it is fair to say this area is a commercial area, isn't that correct?

A. Yes.

Q. There are street lights all over the place, isn't there?

A. Yes.

Q. In fact, I think if you were to count them, there would be about twenty-two street lights that light up that area?

A. Right, I guess.

Q. So, you are able to see?

A. Yes.

Q. What you say you told us what you saw?

A. Yes.

[C37]Q. There were no shadows and people hiding in the shadows, is that correct?

A. No.

Q. So, you are trying to tell us what you saw and who did it was based upon what you saw out there because of the lights?

A. Yes.

Q. And those lights are right along the front of that building of Mackie's, is that correct?

A. Yes.

Q. It is like six or seven of them, is that correct?

A. Yes.

Q. Now, you said that you saw some photographs at the police station, is that correct?

A. Yes.

Q. How many photographs were shown to you at that time?

A. How many photographs were shown to me?

Q. I will be fair to you. I will not knit pick, I am just going to say approximately how many photographs were shown to you, a handful, a dozen, a book, just a a couple, how many were shown to you, sir, do you remember?

A. Well, they showed me a book at one time. They [C38]showed me a book.

Q. And was that after you told the police a description of this person that you saw out there?

A. Yes, this was after I gave a description.

Q. And the description you gave was approximately two hundred forty pounds and around 6'2, is that correct?

A. Yes.

Q. When you went to this lineup and you looked at these five people seated in front of you, sir, were all five of these people part of the photographs that were shown you the first time you went to the police station?

A. No.

Q. Only one person was the same?

A. Yes.

Q. And you remembered that, that there was one person from the photographs and there was one person in the lineup, right, and you remembered that?

A. Yes.

MR. RAGO: If I may have just a moment, please, Judge.

THE COURT: Okay.

5. (Short pause)

MR. RAGO:

Q. Now, sir, you spoke of your coming to Mackie's [C39]with your friend driving, correct?

A. Yes.

Q. And then you tell us you took the teenager to the hospital, and you went back to Mackie's?

A. Yes.

Q. Why did you go back to Mackie's?

A. Well, Johnnie Morgan was driving, and it was he was decided to go to Mackie's.

Q. It is your car?

A. Yes.

Q. Why did you go back to Mackie's?

A. Well, I don't know why he went back to Mackie's.

Q. Mackie's is a source of liquor, is that correct?

A. Yes.

Q. Did you guys drink?

A. Yes, we do drink.

Q. More than just a couple?

MR. DELANEY: Objection, Judge, as to relevancy, at what point.

THE COURT: Let's get into the specific day.

MR. RAGO: I will.

Q. That evening before you went to Mackie's that evening, did you have anything to drink?

A. No.

[C40]Q. No drink at all?

A. Well, actually the third person in the car we had left him at Mackie's, and I can't remember. He was not there when we came back to Mackie's.

Q. I understand that, sir. Now we are getting to the drinking issues. I understand that this friend, who was a friend of your friend, Johnnie, left the vehicle, I understand that.

A. Yes.

Q. That day, had you done any drinking at all?

A. No, I did not.

Q. Were you going to Mackie's with your friend intending to get drinks?

MR. DELANEY: Objection, Judge, relevancy.

MR. RAGO: It is cross examination, Judge.

THE COURT: Overruled.

MR. RAGO: Thank you.

THE WITNESS: I do not know what he went into Mackie's to get.

MR. RAGO:

Q. I am asking about you, sir.

A. No, I did not go do Mackie's to get drinks.

Q. Did you go there for any other reason?

A. No, I was just in the car with Johnnie.

[C41]Q. When Johnnie drove you back to Mackie's while you guys were heading out away from the hospital, did he tell you where you were going; did you guys talk about where you were going to head to?

A. Yes, he said we were going back there to -- we were going to go back to Mackie's because he --

Q. Is that where you wanted to go, as well?

A. Not really.

Q. Now, sir, this hospital trip, your friend insisted that you help and use your car to take this teenager to the hospital, right?

A. Yes.

Q. So you guys went to the hospital, right?

A. Yes.

Q. You basically dropped him off there and took off, right; you left, is that correct?

A. Yes.

Q. Didn't talk to the nursing staff or emergency room staff people, did you?

A. Johnnie spoke to them.

Q. You didn't?

A. I did not.

Q. And as soon as Johnnie dropped off inside -- because I think you stood outside the door, right?

[C42]A. Yes.

Q. You guys hopped in the car and you took off, right; you left?

A. Yes.

Q. Didn't wait to see if the police would come, correct?

A. Well, the police had pulled up the same time.

Q. So, the police were at the hospital?

A. Well, he pulled up and Johnnie hollered at the policeman.

Q. This is at the hospital now?

A. Yes.

Q. You talked to that police officer, right, about what you say?

A. We did not get out of the car. He pulled up --

Q. Did you talk to the police officer?

A. No, I did not speak to the police.

Q. You stayed in the car, right?

A. We both stayed in the car.

Q. Thank you. You played deaf and dumb, didn't tell the police --

MR. DELANEY: Objection, Judge.

MR. RAGO: Correct.

THE COURT: Sustained.

[C43]THE WITNESS: What is that?

MR. RAGO: I apologize. I will withdraw that.

THE WITNESS: What is that?

MR. RAGO: Thank you, sir. I will withdraw that.

THE COURT: Never mind, don't pay any attention to it.

MR. RAGO:

Q. You didn't get out of the car and talk to the police officer, correct?

A. No, he did not.

Q. Did you tell the police officers you were the guys that brought this person into the hospital?

A. Johnnie told the policeman that.

Q. Were you there when he said that?

A. Yes, I was there.

Q. Did Johnnie holler it out from the car?

A. Yes, sir.

Q. Did the police officer tell you guys to stay and wait?

A. No, he did not.

Q. You guys took off?

A. Yes.

MR. RAGO: Nothing further, Judge. Thank you.

[C44]REDIRECT EXAMINATION

BY MR. DELANEY:

Q. Mr. Johnnie, you saw the defendant's face at Mackie's on September 22nd?

A. Yes.

Q. And you got chance to look at him, right?

A. Yes.

Q. What period of time were you able to look at him on September 22, 1999?

A. As he turned away from the kid and was walking away.

Q. You saw him coming up, also?

A. Yes, I saw him coming up.

Q. What period of time would you say you were able to look at him and see him?

A. Well, mostly I got a good look at him when he turned from the kid and walked away.

Q. When he was about eight feet from away from you?

A. Yes.

Q. And you saw his face?

A. Yes.

Q. And when you looked at the photographs that Officer White showed you on September 28th, six days later, you saw a picture of his face, is that correct?

[C45]A. Yes.

Q. And the lineup that you saw, you saw his face, is that correct?

A. Yes.

Q. And you picked him out as that individual who you saw striking the victim on September 22nd, is that right?

A. Yes.

Q. Now, just six days later when the police contacted you, you went to the police station, right?

A. Yes.

Q. You had no problem doing that, did you?

A. No.

Q. And on October 22nd when they contacted you again, you went there willingly, is that right?

A. Yes.

MR. DELANEY: I have no other questions, Judge.

RECROSS EXAMINATION

BY MR. RAGO:

Q. The police had to contact you?

A. Yes, they came to my house.

Q. You never called them?

A. I went to the police station.

Q. During the time of the incident, the first time [C46]you went to the Markham Police Department because police contacted you, did you ever call the police and tell them that you saw what you say you saw out there in front of Mackie's?

A. After we left the hospital, and we came back to Mackie's, we told the police that we saw what happened.

Q. Now, it is we. You also talked to the police?

A. No, Johnnie told the police that.

Q. Please, we will keep this to you, because if you were not next to Johnnie while he is talking to the police, you cannot tell what the heck Johnnie may or may not have said. Did you, did you talk to the police at that time?

A. No, I did not.

Q. Did you talk to the police at any time; call, do whatever it is, go to the police?

A. No.

Q. Tell them anything about you having seen as well what you say you saw?

A. No.

MR. RAGO: Nothing further, Judge.

FURTHER EXAMINATION REDIRECT

BY MR. DELANEY:

Q. Mr. Johnnie, you did tell them on September [C47]28th, is that right?

A. Yes, sir.

MR. DELANEY: I have no further questions.

THE COURT: Anything else

MR. RAGO: No.

THE COURT: What is your dialect?

THE WITNESS: I am from the Caribbean, actually.

THE COURT: Which island?

THE WITNESS: Well, I was born in Carrsale, and I grew up State Vincent, West Indies.

THE COURT: How long have you lived in the United States?

THE WITNESS: Since 1982.

THE COURT: Anything else?

MR. DELANEY: No, Judge.

THE COURT: Okay, thank you. You may be excused.

6. (Witness excused)

THE COURT: Do you want to call another witness now, or do you need a break?

MR. GOLDEN: It is up to you

THE COURT: We will take a five minute break.

(WHEREUPON said matter was recessed, after which the following proceedings were had, to-wit:)

[C48]THE COURT: Do you want to call your next witness?

MR. GOLDEN: Judge, I believe at this time we will proceed by way of stipulation that if Officer Alexander were called to testify, he would testify in the same manner that he did at the hearing before Your Honor on April 10th of the year 2000, for the motion to quash arrest, and I would submit a copy of that transcript. His testimony is pages 26 through 37. That would be People's Exhibit 7.

MR. RAGO: And the relevant cross examination, Judge.

MR. GOLDEN: Of course.

THE COURT: Do you want to call another witness?

MR. DELANEY: Yes, Judge. The State will call Detective Sergeant White.

7. (Witness sworn)

THE COURT: Have a seat, officer.

DETECTIVE SERGEANT WHITE,

called as a witness herein, on behalf of the People of the State of Illinois, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DELANEY:

Q. Sergeant, could you state your name for the record, please?

[C49]A. Terry White.

Q. And where do you work, sergeant?

A. Markham Police Department.

Q. And currently you are a detective sergeant there?

A. That is correct.

Q. How long have you worked for the Markham Police Department?

A. Coming up on ten years.

Q. You have been a sergeant for how long?

A. Approximately four years.

Q. And a detective for how long?

A. Seven years.

Q. Sergeant, on September 22nd of 1999, were you assigned what I guess at that point was an aggravated battery or aggravated assault, which occurred at Mackie's Lounge on the evening of the 22nd of September?

A. Yes.

Q. Now, as part of that investigation, did you interview a man by the name of Maurice Johnnie?

A. Yes.

Q. And did that interview take place on September 28th?

A. Yes, it did.

[C50]Q. Were you provided with a description by Mr. Johnnie at that time?

A. Yes, I was.

Q. Now, after you he gave you a description of the individual that was involved in this incident, what did you do?

A. I put together what we call a photo lineup.

Q. Would you describe how you did that?

A. It is just compiling a series of arrest photos.

Q. Now, the photos that you used were based on what?

A. Arrests, and the description that Mr. Johnnie gave.

Q. How many photos did you ultimately use in the photo lineup that Mr. Johnnie looked at?

A. Six.

Q. Of those individuals, did Mr. Johnnie select one?

A. Yes, he did.

Q. And who did he select in that photo array?

A. Mr. Owens

Q. Now, do you know Mr. Owens?

A. Yes, I do

Q. Is he in court today?

[C51]A. Yes, he is.

Q. Would you point him out and identify something that he is wearing?

MR. RAGO: Judge, stipulation this officer will identify my client.

THE COURT: Stipulation the witness has identified Mr. Owens.

MR. DELANEY:

Q. Now, prior to Mr. Johnnie's selection of the defendant in that photo array, did you indicate to him that he would be in that photo array?

A. No.

Q. Did you make any other suggestive remarks about anyone in that photo array?

A. No, I didn't.

MR. DELANEY: May I approach the sergeant, Judge?

THE COURT: Go ahead.

MR. DELANEY:

Q. Sergeant, I am showing you what has been marked as People's Exhibit Number 8 for identification. Do you recognize what that is?

A. Yes, I do.

Q. What is that?

A. This is the photo lineup that I used.

[C52]Q. Did Mr. Johnnie view that photo lineup?

A. Yes, he did.

Q. Did he select an individual in that photo lineup, which he stated was the individual he saw striking the victim at Mackie's Lounge on the 22nd of September?

A. Yes.

MR. RAGO: Excuse me a minute. Before the answer is tendered, could I have a moment.

8. (Short pause.)

MR. RAGO: Thank you, Judge. I apologize for the delay, but I do have an objection at this time. If we need to be heard, Judge, I would ask it be done outside of the hearing of the witness.

THE COURT: What is your objection?

MR. RAGO: It will be a hearsay basis, but there is an additional aspect.

THE COURT: We will go -- sorry, why don't you step back there.

9. (Witness excused from the courtroom)

MR. RAGO: It would be under People versus Williams at this time. It is hearsay for this officer to suggest or indicate that someone else may or may

not have done an identification of anybody here, or point to anybody. [C53]This is the first time this exhibit has been identified and used in this court. It was not tendered to Mr. Johnnie, and to elicit testimony from this officer regarding either assertive conduct or any indication that Mr. Johnnie did anything in order to suggest or do an identification is inappropriate at this time.

THE COURT: Were you tendered that in discovery?

MR. RAGO: As far as discovery, that is not the issue. This was not used with Mr. Johnnie, People's Exhibit Number 8 for identification. It was not used. So Mr. Johnnie elicited no testimony at all regarding this array.

THE COURT: Correct.

MR. RAGO: In fact, Mr. Johnnie's testimony deals with another issue, not with these six photographs in People's Exhibit Number 8 for identification. So, this officer should not testify as to what Mr. Johnnie may or may not have done with People's Exhibit Number 8.

MR. DELANEY: Judge, it is our position that in fact that it is an exception to the hearsay rule, whether it was tendered to Mr. Johnnie or not has no bearing if the officer can testify. It is an exception to the hearsay rule of an out of court identification.

THE COURT: Okay, based on the arguments, I am going [C54]to overrule your objection. Okay, call the officer back.

10. (Witness resumes the stand.)

MR. DELANEY: Could I continue, Judge?

THE COURT: Go ahead.

MR. DELANEY:

Q. Sergeant, again, you have looked at People's Exhibit Number 8 for identification, and you stated that was the photo array you showed Mr. Johnnie on September 28th.

Is the individual he selected as the person that he saw on September 22nd at Mackie's Lounge in that photo array?

A. Yes, he is.

Q. Would you tell the Court the number of that individual?

A. Number four.

Q. And who is number four?

A. Lawrence Owens.

Q. Is that, People's Exhibit Number 8 for identification, is that in the same or substantially

the same condition as it was when you presented it to Mr. Johnnie on September 28th, 1999?

A. Yes.

Q. Sergeant, sometime after Mr. Johnnie picked out [C55]the defendant in that photo array, did you learn that the defendant was arrested?

A. Yes.

Q. Now, would that have been on October 26th of 1999?

A. That is correct.

Q. Now, did you contact -- again contact Mr. Johnnie on October 27th of 1999?

A. Yes.

Q. For what purpose?

A. To view a physical lineup.

Q. And can you explain to the Court what you did and how you did it in relation to the lineup?

A. That is a matter of gathering individuals with similar physical characteristics to Mr. Owens, and placing them in an actual physical lineup so that witnesses can view them.

Q. And did you do that?

A. Yes.

Q. How many individuals did you get together for that?

A. It should have been probably five in total.

Q. Before Mr. Johnnie viewed the lineup, did you give any indication or suggestion to him who was in the [C56]lineup?

A. No.

Q. Did Mr. Johnnie view the lineup?

A. Yes, he did.

Q. Was the defendant in that lineup?

A. Yes, he was.

Q. Did Mr. Johnnie select an individual in the lineup?

A. Yes, he did.

Q. Did he tell you that was the person he saw swinging the bat at the boy on the bike at Mackie's Lounge?

A. Yes, he did.

Q. Who did he select out of that lineup?

A. Mr. Owens.

MR. DELANEY: Judge, I will again show counsel People's Number 6 for identification.

Q. Sergeant, showing you People's Exhibit Number 6 for identification, do you recognize what that is?

A. Yes, I do.

Q. What is this?

A. It is a picture of the physical lineup.

Q. Is that the one, the lineup that Mr. Johnnie viewed on October 27th of 1999?

[C57]A. Yes, it is.

Q. Now, is the individual he stated that he saw striking the victim on September 22nd present in that lineup?

A. Yes, he is.

Q. Who did Mr. Johnnie select as that person?

A. Number one.

Q. And who is number one?

A. Mr. Owens.

Q. And does that photo truly and accurately represent the way the lineup appeared that Mr. Johnnie viewed on October 27th of 1999?

A. Yes, it does.

Q. Now, sergeant, did anyone else view that lineup?

A. Yes, they did.

Q. Who else viewed that lineup?

A. Another witness.

Q. And who was that?

A. William Evans.

Q. At the time -- was that the same day that Mr. Johnnie viewed the lineup?

A. That was the same day.

Q. Were they, did they view the lineup together?

A. No.

[C58]Q. Before Mr. Williams viewed the lineup, did you make any suggestions to him who was in the lineup?

A. No.

Q. Did you tell him that Lawrence Owens was going to be in the lineup?

A. No, I didn't.

Q. Were you present when Mr. Williams viewed the lineup?

A. Yes, I was.

MR. RAGO: I am sorry to interrupt. It should be Mr. Evans.

MR. DELANEY: Pardon me.

Q. Were you present when Mr. Evans viewed the lineup?

A. Yes, I was.

Q. Who did he select in that lineup?

A. Mr. Owens.

Q. Was Mr. Owens positioned in the same way as he was as when Mr. Johnnie viewed the lineup?

A. Yes, the exact same position.

Q. Did Mr. Evans indicate to you that the defendant was the individual he saw at Mackie's Lounge with the bat striking the boy on the bike on September 22nd?

A. Yes, he did.

[C59]Q. Did Mr. Evans also view the photo array?

A. Yes, he did.

Q. Do you remember when that was?

A. The same day that Mr. Johnnie viewed it.

Q. Who did he select from the photo array?

A. Mr. Owens.

Q. Were any suggestions or indications made to him about Mr. Owens being in that photo array?

A. No.

Q. Who did he select in the photo array?

A. Mr. Owens.

Q. Did the photo array appear as it did when I showed it to you as in People's Exhibit Number 8?

A. Yes.

MR. DELANEY: No further questions, Judge.

THE COURT: Cross.

CROSS EXAMINATION

BY MR. RAGO:

Q. Detective White, you chose people that had a general physical build of approximately two hundred forty pounds, is that correct?

A. Yes.

Q. For purposes of the photo array?

A. Yes.

[C60]Q. Correct?

A. Yes, pretty much.

Q. And in similar manner, again because you are fair, for the lineup you also tried to pick some people approximating two hundred forty some old pounds?

A. Best I could.

Q. And the other characteristic you were looking for was approximately six foot two, correct?

A. More or less the facial hair more.

Q. You didn't go by height?

A. We tried to stick with the height, also.

Q. And the height was provided by Mr. Johnnie, correct?

A. Yes, that is correct.

Q. Six foot two?

A. Yes.

Q. Yet during the lineup procedure itself you had all five people seated, is that correct?

A. Yes, we did.

Q. Now, the six people that you had in the photo array, that being People's Number 8 -- and Judge. I

will go through this examination without prejudice to the points I made and the objections I made during side bar.

THE COURT: Fine.

[C61]MR. RAGO: If the Court will accept that, please. Based upon the law of the case I have to explore the issue.

Q. The six people that are depicted in People's Exhibit Number 8 for identification, the six photo array, correct?

A. Yes.

Q. You didn't use those people for the lineup, did you?

A. No.

Q. You chose other people, correct?

A. Yes.

Q. So, the only one that was depicted in both the photo array as well as the lineup was my client, Mr. Owens?

A. That is correct.

MR. RAGO: Thank you. No further questions, Judge.

THE COURT: Do you have anything else?

MR. DELANEY: No further questions.

THE COURT: Thank you. You may be excused.

11. (Witness excused)

THE COURT: We will take a lunch break now.

12. (WHICH matter was recessed for lunch.)

[C62]

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT-CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS	)	Indictment No. 99 CR 25287
VS	)	Before Judge JOSEPH
LARRY OWENS	)	MACELLAIO
	)	Wednesday, November 8, 2000, PM
	)	Bench Trial

APPEARANCES:

III.HON. RICHARD A. DEVINE, State's Attorney of Cook County, by MESSRS. MICHAEL GOLDEN and WILLIAM DELANEY, Assistant State's Attorneys, appeared for the People;

IV.MS. RITA A. FRY, Public Defender of Cook County, by MESSRS. FRANK RAGO and JOHN WILSON, Assistant Public Defenders, appeared for the Defendant.

REPORTED BY
Cherylyn D. Thompson, CSR, RPR, 084-001143
Official Court Reporter
16501 South Kedzie Parkway

[C63]THE CLERK: Larry Owens. State, ready to call another witness?

MR. GOLDEN: Yes, Judge. The People would call William Evans.

13. (Witness sworn)

THE COURT: Have a seat.

WILLIAM EVANS,

called as a witness herein, on behalf of the People of the State of Illinois, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GOLDEN:

Q. Sir, I am going to ask you to speak up loudly and identify yourself to the court reporter, spelling your name?

A. W-i-l-l-i-a-m -- my name is William Evans, W-i-l-l-a-m, E-v-a-n-s.

Q. And Mr. Evans, how old are you?

A. Forty-five.

THE COURT: Twenty-five?

THE WITNESS: Forty-five.

THE COURT: Forty-five.

MR. GOLDEN:

Q. Mr. Evans, you are currently in the Cook County [C64]Department of Corrections, is that correct?

A. That is correct.

Q. And that is because you were charged with possession of a controlled substance with intent to deliver under case number 99 C6 61825?

A. Yes, that is correct.

Q. And that happened in November of 1999, correct?

A. Yes.

Q. And in addition, you are currently on probation under case number 99 C6 60008, is that correct?

A. Yes.

Q. And that was for delivery of controlled substance?

A. Yes.

Q. Now, prior to your testimony today, you met with myself and your own attorney, correct?

A. Yes.

Q. And in exchange for your truthful testimony in this case, we have agreed to recommend a sentence of probation on the new case for a charge of possession of controlled substance, correct?

A. Yes.

Q. And to re-commit you to probation on your old case, correct?

[C65]A. Correct.

Q. And that was a sentencing recommendation that we will make to the Judge in exchange for your truthful testimony, is that correct?

A. Yes.

Q. Mr. Evans, I would like to direct your attention to September 22, 1999, in the evening hours, where were you?

A. At Mackie's Food and Liquors on 159th and Dixie Highway.

Q. That is in?

A. Harvey.

Q. That is Harvey?

A. Markham, because it is the Markham Police that patrol there.

Q. Where at, where were you at Mackie's, what part of the building?

A. On the lounge end of the corner, which is like the south --

MR. WILSON: Excuse me, Your Honor. Could you ask the witness to speak up.

THE COURT: Keep your voice up. If you sit over so your voice is not blocked.

THE WITNESS: It was at the corner, at the far corner [C66]where the lounge is at.

MR. GOLDEN:

Q. Is that the corner that is closest to Dixie Highway?

A. Yes.

Q. And approximately, shortly after 8:00 o'clock, did you see anybody there that you knew?

A. Yes, sir.

Q. Who did you see?

A. Kermit. His nickname is Kermit.

Q. Do you know Kermit's real name?

A. No, we just called him Kermit.

MR. GOLDEN: May I approach, Your Honor?

THE COURT: Go ahead.

MR. GOLDEN:

Q. Showing you what I have previously marked as People's Exhibit Number 1, do you recognize who is in that picture?

A. That is Kermit.

Q. When you saw Kermit at Mackie's Lounge that light, what was he doing?

A. He was -- first he was walking around. Then later on he had got on a little twenty inch small bike.

Q. Did you talk with Kermit that night?

[C67]A. Yes, we were laughing and joking.

Q. Where were you at when you were talking with him?

A. I was still on that corner.

Q. How long did you talk with him?

A. About anywhere from half hour maybe to an hour because he was riding around.

Q. After he left you, did you see where he went?

A. He was in front of the two double doors that goes into the entrance of the liquor store.

Q. What was he doing there?

A. He was sitting on the bike.

Q. Was there anybody else around him at that time?

A. After the two guys that approached and was talking to him.

Q. Did you see anybody in the car that Kermit was talking to?

A. No.

Q. And what happened after you saw Kermit talking with these two guys?

A. At that time I was getting ready to get my bucket to go wash a car and I heard something sound like some wood had split.

Q. Let me stop you and back up. The two guys that [C68]you said you saw him talking to, when is the first time that you saw those two guys that night?

A. When they came to the store.

Q. Did you see where they came from?

A. They came from the north, from the south, from the north end going south.

Q. Is that by --

A. On the Dixie Highway side.

Q. Right by where you were standing?

A. Yes.

Q. What was the lighting like?

A. It was just a little bit after dark, but it was not really dark yet.

Q. Was there a street light and other lights on at that time?

A. They normally cut the liquor store lights on around the store.

Q. Were you able to see the faces of those people?

A. Yes.

Q. Did you recognize either one of them?

A. Yes.

Q. And how did you recognize them?

A. From previous times being around by the store. I didn't really know them by name.

[C69]Q. But you recognized their faces?

A. Yes.

Q. Do you see either one of those people in court here today?

A. Yes.

Q. Would you point to him and identify him by an article of clothing?

A. The guy in the DOC uniform.

MR. GOLDEN: May the record reflect an in court identification of the defendant?

THE COURT: The record will so reflect.

MR. GOLDEN:

Q. When you saw the defendant, did he have anything in his hand?

A. He had a baseball bat.

Q. And where did he go as he came from the north to the south by Mackie's?

A. To the doorway where Kermit was at.

Q. And did you see what happened when he went to the doorway where Kermit was at?

A. They was talking to him.

Q. What were you doing when they were talking?

A. I was in the process of getting ready to get my bucket.

[C70]Q. When you say get your bucket, what do you mean?

A. A five gallon bucket that I wash cars with.

Q. So, you keep a bucket around with cleaning materials?

A. Yes.

Q. Where did you keep that bucket at?

A. On the north corner by the garbage can.

Q. When you went to get your bucket, what if anything happened?

A. I heard a sound like some wood was being split or broken. Then when I looked back, I saw Kermit getting hit with the bat.

Q. When you looked back, where was Kermit?

A. At the entrance door.

Q. Was he still on his bike?

A. When I saw him he was laying down half in the store and half out of the store.

Q. Where was the bike?

A. It was like he was still on it, but it was laying down.

Q. Was there anybody standing over him at that time?

A. Yes.

Q. Who?

[C71]A. No, at that time, the guys had ran, they had left.

Q. Did you see anybody hit Kermit?

A. Yes.

Q. Who did you see hit Kermit?

A. The guy right there with the DOC uniform on.

MR. GOLDEN: May the record reflect an in court identification of the defendant?

THE COURT: The record will so reflect.

MR. GOLDEN:

Q. When you saw the defendant hit Kermit, what did he use to hit him?

A. The bat.

Q. Could you tell how many hands he had on the bat?

A. I really could not see because his back was turned.

Q. Could you tell what part of Kermit's body the defendant hit?

A. Head blows.

Q. How many times did you see him hit?

A. Twice.

Q. Hit in the head with the bad?

A. Two times.

Q. When you saw him, Kermit was already laying on [C72]the ground?

A. Yes.

Q. What happened after the last time you saw the defendant hit Kermit?

A. I hollered hey, what is going on, and they took off running.

Q. Which way did they run?

A. North going back to Dixie Highway from the direction they came.

Q. So, they came back towards Dixie Highway, correct?

A. Yes.

Q. And then they went --

A. Down --

Q. Northbound?

A. Down Dixie.

Q. And they ran past you again?

A. Right.

Q. Were you able to see his face as he ran past you?

A. At that time I was going to try to see what was happening with Kermit.

Q. Directing your attention to September 28th, did you go to the Markham Police Department?

[C73]A. Yes, I did.

Q. Did you view a photo array?

A. Yes.

Q. Did you pick anybody out in that photo array?

A. Yes, I did.

MR. GOLDEN: May I approach, Judge?

THE COURT: Go ahead.

MR. GOLDEN:

Q. I show you what I have marked as People's Exhibit 8, do you recognize that?

A. Yes, I do.

Q. What is that?

A. That is photo I picked out.

Q. That is the photo array that you viewed?

A. Yes, sir.

Q. And what number did you pick out?

A. The second one.

Q. Which one?

A. The second one.

Q. When you say the second one, what number is underneath?

A. Two.

Q. Directing your attention to October 27th, did you again go to the Markham Police Department?

[C74]A. Yes.

Q. And did you view a physical lineup at that time?

A. Yes, I did.

Q. I show you what has previously been marked as People's Exhibit Number 6, do you recognize that?

A. Yes, I do.

Q. And what is that?

A. That was the lineup picture.

Q. Did you pick anybody out of that lineup?

A. With the picture facing me, the first one on the left.

Q. Is there a number above that?

A. One.

Q. And the person you picked out, number one, that is the person that you saw hitting Kermit with the bat in the head?

A. Yes, it was.

Q. Let me back up a little bit, Mr. Evans. When the defendant ran past you after he had hit Kermit, what did you do?

A. I went to see what happened, see what was wrong with Kermit, see what kind of shape he was in.

Q. What did you do?

A. He was laying in the middle of the door shaking, [C75]trembling like.

Q. Was he able to speak?

A. No, he couldn't.

Q. What did you do?

A. I picked him up, because the other fellows was there and they said they said they was going to take him to the hospital, so I helped pick him up and put him in the car.

Q. And what happened after you put him in the car?

A. They drove off, and said don't go no where, that they will be back.

Q. Had you seen those people in the car, had you seen that car there before?

A. Not to my knowledge, I don't remember seeing it.

Q. But the car was there when you went up and saw Kermit?

A. Yes.

Q. You didn't see the car drive up at the time this attack happened?

A. No, I didn't.

Q. Mr. Evans, I will show you what I have marked as People's Exhibit Number 9, do you recognize that?

A. That is the liquor store.

Q. Does that fairly depict the way the liquor store [C76]looked on that night?

A. It was not that bright.

Q. But the layout of the liquor store?

A. Yes, that is.

Q. I would like to you use this pen at put an X where it is that you saw Kermit laying?

A. (Indicating).

Q. I will show you People's Exhibit 10, do you recognize that?

A. That is the side view of the liquor store.

Q. That is the side showing --

A. Dixie Highway.

Q. And is that the side that you were standing on?

A. That is side I was on.

Q. Would you use that same pen and mark an X approximately where you were standing when you were getting your bucket?

A. (Indicating)

Q. That place where you marked the X, that is the place you were standing when you heard the wood breaking?

A. That is where I was at.

MR. GOLDEN: Nothing further.

THE COURT: Cross examination.

MR. RAGO: If I may have a moment with opposing [C77]counsel?

THE COURT: Sure.

14. (Short pause)

CROSS EXAMINATION

BY MR. RAGO:

Q. What gang are you with?

A. None.

Q. None?

A. No, sir.

Q. Never involved?

A. No.

Q. The gentleman on the bicycle, not one of your associates, is he?

A. I just know him from the neighborhood.

Q. Just a neighborhood acquaintance by face, and you are at that northeast corner of the property, Mackie's, is that correct?

A. That is correct.

Q. So that is the side closest to Dixie Highway, right?

A. Right.

MR. RAGO: May I approach?

THE COURT: Go ahead.

MR. RAGO: Thank you. May I have continuing [C78]permission, Judge?

THE COURT: Um hum

MR. RAGO:

Q. I will show you again People's Exhibit 10 for identification, which the State showed you when you were giving your story on direct examination, right?

A. Yes.

Q. That X is at the northeasterly corner, correct?

A. Correct.

Q. And the northeast corner on the far lefthand side is the side that faces southeast, correct?

A. This faces southeast.

Q. So it faces towards the corner of Dixie and 159th, is that right, and this large side of this building is the side that mostly faces towards Dixie?

A. Yes.

Q. And you had already gone around the corner?

A. There is a garbage can sits here. My bucket sitting right next to it. All I have to do is just reach over there and get it.

Q. And you didn't curl your body around, you actually went around the corner to get your bucket?

A. No, I reached for my bucket.

Q. Did you curl your body around the corner, sir, [C79]or did you do an agile act, which was to go around an obstacle and pick up your bucket?

A. No, all I had to do was reach over to get the bucket.

Q. Around the garbage can?

A. Yes.

Q. Two people came from that area, from the northerly area walking southerly, correct according to your story?

A. Correct.

Q. According to you, not one, but two?

A. Yes.

Q. We are clear on that?

A. Yes.

Q. You supposedly say you see a guy with a bat, right?

A. I did see a guy with a bat.

Q. When you saw this person with a bat, of course you said nothing, is that correct?

A. I didn't know what they was going to do.

Q. So, you certainly didn't have to worry about yourself, is that what are telling us?

A. I didn't have to worry about me.

Q. And supposedly this person you see with the bat [C80]is not a young kid with a baseball bat apparently coming back from a ball game, right?

A. It was not a young kid.

Q. It was not a kid. It was an adult with a bat?

A. Yes.

Q. You never saw this car parked directly in front of Mackie's two entranceways, is that correct?

A. I didn't see the car until we were putting him into the car.

Q. And you had first seen this young had with the bicycle at the north end of Mackie's, not the south end with the group of people, is that correct?

A. Correct.

Q. Did you talk to the police that night after this young lad had been struck?

A. I spoke to them briefly.

Q. Who did you talk to?

A. I don't know the officer's name.

Q. You don't know the officer's name?

A. I know his face when I see him. He works for Markham.

Q. Did you tell that officer what you saw?

A. Yes, I did.

Q. Did you give a description of the guy that is [C81]supposedly welding the bat and hitting the seventeen years old?

A. They just took off when looking for him. I told them which direction they went to and he went down the street.

Q. What did you tell the police officer about the physical description of the person welding the bat according to your story?

A. They didn't ask me for no physical description.

THE COURT: I can't hear you.

THE WITNESS: They didn't ask me for a description.

MR. RAGO:

Q. Who were the police going to go find, if you didn't tell them what he looked like?

MR. GOLDEN: Objection, argumentative.

THE COURT: It is argumentative. Rephrase the question.

MR. RAGO:

Q. Did you tell them how tall the guy might have been?

A. Yes.

Q. Pardon me?

A. I told him he was a little taller than me, and the other one was about my size, my height.

[C82]Q. About your height?

A. The other one. It was two. One tall and one about my height.

Q. How tall are you for this record?

A. 5'9.

Q. So, the other person was about your size, right? The other person was taller than you are?

A. One was taller and one was about my height.

Q. Did you tell them how that person was dressed?

A. They didn't ask me how he was dressed.

Q. Did you tell them about his face?

A. No.

Q. Did you tell them that you knew the guy from the neighborhood?

A. Yes, I said I know him from seeing him around.

Q. Now, you are getting a deal from the State's Attorney's Office, meaning that they are going to

make a recommendation regarding a sentence on you, is that correct?

A. Yes.

Q. You know what you are facing, right?

A. Yes.

Q. You know that you were placed on probation once, right?

[C83]A. Right.

Q. You have a delivery charge in your background, right?

A. Yes, I do.

Q. And what are the charges that you are facing now?

A. Possession.

Q. That is what they are going to kick --

A. Possession with intent to deliver. Reduced to possession.

Q. With intent while you were on probation, right?

A. Yes.

Q. Now, we are in front of the Judge so I will go through this real quickly. You signed that you were

not going to break any laws, right? Now, you have got charged again with having drugs on your body to sell, right?

A. Right.

Q. You know you are facing the penitentiary, right?

A. Yes, yes, I do.

Q. Unless you cut a deal, right? If you don't cut a deal, you are facing the pen, do we agree?

A. I understand.

Q. Do we agree?

[C84]A. Yes.

Q. Now, when you got to talk to these fine gentlemen -- and Judge, for the record I am not casting aspersions on them at all when I pursue this line of questioning. When you talked to these two fine gentlemen, the first and only thing in your mind was we are going to make a deal or I am shutting up, right?

A. No.

Q. You would not talk to them unless you got a deal, right?

A. I talked to them before.

Q. You talked to them in the presence of your lawyer, correct?

A. Correct.

Q. And you were not going to do anything unless and until you got a deal, right?

MR. GOLDEN: Objection.

THE COURT: Overruled.

MR. RAGO:

Q. Correct?

A. No.

Q. So, you were going to give it up to them, right?

A. Yes.

Q. And it is for your "truthful testimony", right?

[C85]A. Right.

Q. Now, these State's Attorneys were not out there that night, right?

A. Right.

Q. They were not with you, so they don't where you were, when you were, correct?

A. Correct.

Q. They don't know what you saw and didn't see, right?

A. Right.

Q. So, as long as the story kind of holds together, they can't tell if it is truthful or not, right?

A. But it is the truth.

Q. Thank you. We appreciate that you wanted to tell us that. Now answer my question. They don't know whether it is true or not, do they?

MR. GOLDEN: Objection.

THE COURT: Overruled.

THE WITNESS: It is the truth.

MR. RAGO:

Q. Do they know?

A. No.

Q. You are the one that is going to tell them what the truth is, right, sir?

[C86]A. Right.

Q. So, what you say is what they have got to go by, right?

A. Right.

Q. So, if you tell them that it is two people, they have to hear it, correct?

A. Correct.

Q. September 28th, you went to the police station, correct?

A. Correct.

Q. October 29th, 1999, you went to the Grand Jury, right?

A. Right.

Q. You were sworn under oath, correct?

A. Correct.

Q. And you were told to testify truthfully at that point, right?

A. Yes.

Q. And in the same fashion when you signed your probation papers, it was your word that you were going to do the right thing, right; the same thing with the Grand Jury, you were told to tell the truth, right?

A. Right.

Q. And in fact, didn't you tell those Grand Jurors [C87]that you next time you saw Kermit he was on the ground, isn't that correct?

A. Correct.

Q. And as far as these two people leaving, you told that Grand Jury that these two people were leaving out the door of Mackie's, is that correct?

A. Leaving from Mackie's.

Q. They were leaving the door from Mackie's, right, is that correct?

A. They were leaving from Mackie's, correct.

MR. RAGO: They were leaving from Mackie's. I am done with him, Judge.

THE COURT: Any redirect?

MR. GOLDEN: Yes, Judge.

REDIRECT EXAMINATION

BY MR. GOLDEN:

A. Sir, on October 29th, 1999, you went to the Grand Jury, correct?

A. Correct.

Q. That was before you picked up the arrest in this case, the second arrest for the charges pending, correct?

A. Correct.

Q. And when you testified before the Grand Jury, you were asked certain questions under oath, correct?

[C88]A. Correct.

Q. You were asked this question, and you gave this answer, correct:

1. Q. And did you leave Kermit there at that location?

2. A. He left me at the north corner. He went to talk to some guys in the car.

Is that correct?

A. Correct.

Q. And then you were asked this question and you gave this answer:

3. Q. Did you see him talk to the guys in the car?

4. A. I barely seen him because I was talking to some guy and I was going to get my bucket to go wash a car across the street.

Is that correct?

A. Correct.

Q. And then you told the Grand Jury how you heard the crack of the bat or the sound of cracking wood and turned around, correct?

A. Correct.

Q. You were asked this question: Did you see the [C89]guy that hit him with the bat?

They had run past me leaving the next door running north down Dixie Highway. Correct?

A. Correct.

Q. You also told the Grand Jury that you went to the Markham Police Department and viewed a lineup, correct?

A. Correct.

Q. And on October 29th, you told the Grand Jury that you picked out this defendant in that lineup, correct?

A. Correct.

Q. You told the Grand Jury that is the man you saw hitting Kermit in the head with the baseball bat, correct?

A. Correct.

MR. GOLDEN: Nothing further.

MR. RAGO: I don't have anything.

THE COURT: You may be excused.

15. (Witness excused.)

MR. GOLDEN: Your Honor, at this time I believe we will proceed by way of stipulation.

THE COURT: Do you have that transcript you were going to give me?

[C90]MR. GOLDEN: Yes, Judge.

MR. RAGO: Are you speaking of People's 7, or you can make it a joint exhibit. You can consider it as a joint exhibit, Judge, but for purposes of numbering we will accept it as People's Exhibit Number 7

THE COURT: Okay.

MR. GOLDEN: Judge, the stipulation is if called to testify, Doctor J. Lawrence Cogan, Cook County Medical Examiner's Office, would be qualified as an expert in the field of forensic pathology. He would testify to the following within a reasonable degree of medical certainty.

He would testify that on September 25, 1999, he performed an autopsy on the body of Ramon Nelson under Medical Examiner case number 385 September, 1999. He would identify People's Exhibit 2 as a photo of Ramon Nelson.

During the course of the autopsy, Doctor Cogan noted the following craniocerebral injuries:

A, multiple contusions of the scalp and brain,

B, multiple skull fractures,

C, epidural hemorrhage,

D, subdural hemorrhage,

E, cerebral edema.

[C91]In addition, Doctor Cogan found multiple contusions and abrasions of the face and extremities.

The cause of Ramon Nelson's death was attributed to head injuries due to assault. The manner of death is homicide.

In addition, Doctor Cogan would identify People's Exhibit Number 11 as a certified copy of the autopsy protocol prepared in this case.

So stipulated?

MR. RAGO: Do you want to make it 12, stipulation being number 11.

MR. GOLDEN: That will be fine. We will make it 12 for the protocol.

THE COURT: Okay.

MR. GOLDEN: Your Honor, at this time the People would move People's Exhibits 1 through 12 into evidence.

THE COURT: Any objection?

MR. RAGO: Is there an additional stipulation, counsel?

MR. GOLDEN: In addition, there would be a further stipulation if called to testify, Officer Lee Dean of the Markham Police Department would testify that on September 22nd, 1999, at Ingalls Hospital, he recovered a clear plastic bag from the coat worn by Ramon Nelson. This [C92]bag contained forty smaller plastic bags, each of which contained an off white rocky substance. Officer Dean conducted field tests which revealed a rocky substance, which tested positive for the presence of cocaine.

So stipulated?

MR. RAGO: So stipulated.

THE COURT: That was on what date?

MR. GOLDEN: September 22nd, 1999.

THE COURT: That was from the victim, right?

MR. GOLDEN: Yes, Judge.

THE COURT: Forty?

MR. GOLDEN: Forty smaller plastic bags, and we are moving People's Exhibits 1 through 13 into evidence. People's 11 being the stipulation with respect to Doctor Cogan, People's 12 the certified protocol, and People's 13, the stipulation of Officer Dean.

MR. GOLDEN: May we have a moment, Judge?

THE COURT: Sure, we will take a break.

MR. GOLDEN: That is fine.

THE COURT: We will take about a ten minute break.

(WHEREUPON said matter was recessed, after which the following proceedings were had, to-wit:)

THE CLERK: Larry Owens.

[C93]THE COURT: You have a stipulation?

MR. GOLDEN: Yes, Your Honor. There would be an additional stipulation that on October 18th of the year 2000, William Evans met with Assistant State's Attorney Michael Golden and William Delaney. The purpose of the meeting was to interview regarding testimony that Mr. Evans would be giving in the case of People versus Lawrence Owens.

At this interview William Evans indicated that he wanted his attorney present for the interview, and that he also wished to discuss the deal for his pending cases before being interviewed.

So stipulated?

MR. RAGO: So stipulated and agreed.

MR. GOLDEN: Additionally, just for the record, we did enter into a written agreement with Mr. Evans regarding -- that was provided to counsel. Today during the interview he mentioned he had a pending misdemeanor case. That will be SOL. It is not incorporated in the agreement. I did speak with counsel. I just wanted the record clear on that.

And finally, Judge, there would be a stipulation that People's Number 14 is a true and correct copy of the Grand Jury transcript for the testimony of William Evans [C94]given October 29th, 1999. So stipulated?

MR. RAGO: So stipulated.

MR. GOLDEN: We are moving that transcript into evidence.

Judge, with the admission of People's Exhibits 1 through 14, the People would rest their case in chief.

THE COURT: Any objection to those exhibits?

MR. RAGO: I will have some discussion, Judge, regarding People's Exhibit Number 8 as it relates to one particular witness, but the State appropriately brought in that as to a second witness, so as to admissibility, Judge, we have no objection to all of the respective exhibits, People's Exhibit 1 to and including 14.

THE COURT: Okay, those will be admitted into evidence. State rest. Do you have a motion?

MR. RAGO: Directed finding, Judge. Waive argument at this time.

THE COURT: Denied.

MR. RAGO: Defense rest.

THE COURT: Both sides ready to argue?

MR. DELANEY: Yes, Judge.

THE COURT: Go ahead.

OPENING ARGUMENT

BY MR. DELANEY:

[C95]Judge, there are a couple of things that are very obvious here. First of all, that on September 22nd of 1999, Ramon Nelson was viciously and brutally beaten with a baseball bat. So viciously and so violently it caused multiple skull fractures, epidural hemorrhage, subdural hemorrhage, cerebral edema, all leading to his death.

The other thing that has been proven and not in question at this point, Judge is that this man is the man that did it. He was identified on several occasions by two different witnesses, and as he sits before you Judge, he has been proven guilty at this time. We have proven him guilty.

Judge, it boils down to identification. I think it is very clear that is the issue at this point. You heard the testimony of Maurice Johnnie. Judge, an

individual who did not know the defendant, did not know Ramon Nelson, who happened to be standing or sitting in his car in front of Mackie's Lounge.

He told you, Judge, he saw the victim on his bicycle, he was sitting there waiting for his other friend to come out of the store, he sees Ramon talking to his friend. He sees Ramon ride his bicycle down the sidewalk about eight feet in front of him. About twelve feet down the sidewalk, who does he see; he sees the defendant coming [C96]down the sidewalk. The defendant is coming down the sidewalk at Ramon. Ramon begins to turn his bike around. Before he gets around, he gets clubbed. He gets clubbed in the head with a baseball bat by the defendant. Remember the testimony of Mr. Johnnie, Judge. Again, it goes to how close he was when he first saw the defendant. He was twelve feet, and everything is well lit. The store sits at 159th and Dixie Highway, which you know, you heard the testimony about how well lit that area is. He sat there. He saw the baseball bat. He saw the defendant's face. He saw the defendant clubbing Ramon Nelson with the baseball bat. And he said as Ramon went down in front of that, in that doorway, the defendant was not done, because he took a couple more shots at him, Judge, all in the head or upper body, all causing multiple skull fractures, all causing the injuries that caused his death.

He is the individual who did it, and he was identified again by Mr. Johnnie. What did Mr. Johnnie and his friend do. They take off, no. They get up and the defendant run away. They throw

Ramon into his car, and take him to the hospital, talk to some police. Where do they go. They go back to Mackie's, talk so some more police.

[C97]Six days later, what do Mr. Johnnie do, he comes in and talks to Detective Sergeant White, gives them a description, tell them what happened, and says yes, from the photo array, says yes, that is him. Who does he pick out, the defendant. Who does Sergeant White tell you he picked out, the defendant.

Some weeks go by, almost a month, who gets arrested. The defendant. And remember, Judge, and it has been stipulated through the testimony of Officer Alexander about how the defendant was arrested. He saw him speeding in a residential area right over here in Markham. He was going about fifty mile an hour in I believe it was a twenty-five a mile an hour zone. Does the defendant stop. No, he takes off in his car.

Is he worried about getting a speeding ticket, no. He remembers --

MR. RAGO: Objection, Judge, first off this might be other crimes evidence, which is not appropriate, and second it is also --

THE COURT: Well, the fleeing is appropriate.

MR. RAGO: It is not even close in proximity or location.

THE COURT: I am talking about the original arrest, this arrest where he was taken into custody. Go ahead.

[C98]MR. RAGO: Judge, it was not on the 22nd.

THE COURT: The date he is talking about.

MR. DELANEY: I am talking about October 26th.

THE COURT: Right.

MR. DELANEY: When the defendant was arrested.

MR. RAGO: More than a month later.

THE COURT: Okay, I know.

MR. RAGO: All right, Judge.

MR. DELANEY: Judge, does the defendant stop, no. The defendant continues on. When the defendant finally stops his car, does he get out and talk to Officer Alexander. No, he takes off again on foot. Officer Alexander has to chase him down. He knows it is still fresh in their minds what happened at Mackie's Lounge about a month earlier.

MR. RAGO: Objection, Judge, move to strike.

THE COURT: Overruled.

MR. DELANEY: He is arrested. Maurice Johnnie is called back to the station. We want you to

look at a lineup. Who does he pick out of the line up, the defendant. The defendant who he picked out of the lineup -- picked out of the photo array on September 28th, the defendant he saw for several seconds in a well lit area on September 22nd, 1999, the same defendant he saw [C99]clubbing Ramon Nelson in the head with a baseball bat, Judge. It is something an individual cannot forget. It is not watching somebody slap somebody on the back of the head with their open hand. It is somebody clubbing somebody in the head with a baseball bat. That would stick out in your mind, and it did. It did so that he identified him from the photo array and he identified him in the lineup, and he identified him here in court today this morning.

Again, he has no ax to grind, Mr. Johnnie. He told you what he did for a living. He told you he didn't know any of the parties. He is here because he is telling the truth. That is all, Judge.

Then we have the testimony of William Evans. Now, first of all, Judge, William Evans is who he is. He was at Mackie's Lounge. He told you about what his background is, and what he has done since, and he is no angel, but you know what, this is not central casting where we can put whatever witness we want on there, some little old lady who goes to church every day, and you know she is telling the truth. He, the defendant chose to do this at Mackie's Lounge on September 22nd, 1999. He chose to do it in front of William Evans. We didn't pick him. The defendant picked him, but it is clear [C100]again, of his testimony, Judge, which corroborates Mr. Johnnie's

testimony, who has nothing to gain or lose here. He is just here to tell the truth.

What does William Evans tell you. He says the defendant is the one with the bat. The defendant is the one that is hitting Ramon Nelson. The defendant is the one that flees. The defendant is the one he picks out of the photo array himself. Then, later in the lineup. He told you that he testified at the Grand Jury before he got arrested again.

He told you about the lighting conditions. He told you about how close he was to the defendant, and you can see the pictures, Judge. We are not talking blocks. We are not talking about several hundreds of feet. We are talking eight to twelve feet in a well lit area. Lights on, in front of the store, lights on in the store. He is standing right outside watching the whole thing, and he is standing there when he runs by him, the defendant runs by him with the baseball bat.

That is all there is to this, Judge, other than the fact though, I forgot, that some seventeen year old young man loses his life out in the street with a baseball bat.

Judge, if you look at all of the evidence and you concentrate on the testimony, and again, I can't [C101]reiterate enough about the identification, how they identified him and where, and what they did. Counsel would have you believe he didn't talk to the police right away. He was talking about Maurice Johnnie. Well, shame on him. What does he do. He

takes the kid to the hospital and then he comes back. Did they have to drag him back to the police station twice. No, he came back to view the photo array. He came back to view the lineup. Again, who did they pick out. The one guy that is sitting before you, Judge, the man that is on trial, the man who viciously and brutally killed Ramon Nelson, and we have proven that today, Judge, and we are asking for a finding of guilty. Thank you.

THE COURT: Okay, Frank.

CLOSING ARGUMENT

BY MR. RAGO:

I hope counsel will accept this as a compliment, but there are two points that he made that I need to agree with. Whatever he was engaged in, the seventeen year old should not have died out there, whatever. The pain of the family, nothing that we say here will help to take back the hurt. I hope the family will accept our prayers and thoughts as we all here wish to extend to the family, and this case comes down to is there an identification [C102]here. Is there proof beyond a reasonable doubt.

When I come to these type of cases in front of the Courts or jurors, I am fearful of one thing. It is too easy to say all right, credible witness, if available, one or two, if credible, therefore identification is okay. It is too easy to do that.

We came before you because we want you to test that to see if it is really proof beyond a reasonable

doubt under these facts, these circumstances, these events and the conduct and action of the people. Because to test, to truly test identification, which is now in the court systems becoming more and more under scrutiny because it may not be so inherently credible as we always believed. Other countries have taken different views. We have not yet, but looking at this very very carefully, leave us see what really is here.

Now, we don't fault the State for who they have to pick out there, but please, don't blame us saying somehow, we, the defendant, or the defense picked people to be witnesses. Good God, I don't think anybody is going to pick anybody to come in and accuse them. It is an ingenious argument. It is creative. It is inappropriate to the real issues before you.

So what is really here before you. How do you go [C103]about saying somebody says, somebody denies. My client came in before you having denied his guilt. He entered his pleas of not guilty and he is before you on trial. Somebody accuses and says he is the one, or let's say even two say that. Are they telling you the truth. Are they telling you a quantum of facts and circumstances that lets you believe beyond a reasonable doubt, which is that standard that I know you hold that very dearly to you, that proof beyond a reasonable doubt exist.

Promise you won't get angry with me, Judge, but the reason I suggest to you when we had this discussion regarding People's Exhibit 8 that was in

inappropriate for the State to deal with, they deal with the police officers, the following reasons. I am only doing this for physical demonstrative purposes. Let's imagine that this is a book in the police station with all the photographs. You are well aware of them. I don't know how many thousands you probably have seen in your career, but hers the volume, go see if you find somebody. Here is People's Number 8 for identification, now in evidence as People's Number 8, 6 photographs.

Mr. Johnnie wants us to believe he has identified somebody from a book. The officer says no. From six. We have a tangible physical item that is contradictory [C104]here and it goes straight to identification. Why is this important. Mr. Evans. Mr. Evans points Number 4, my client, oh no, no, no no, no. Mr. Evans says oh, no, I pointed to number two, number two on People's Exhibit 8. That is not my client. You see the problem in letting the police officer say who picked out what when it came to Mr. Johnnie. Thank God at least we are still left with the record here that clearly shows Mr. Johnnie talks about a book. Police officer says no, it not a book. It is six. We can't give much more disparity than that as a physical manifestation that Mr. Johnnie is to be held in question.

I am not going to presume anything here, but Mr. Evans is an outright, self-serving manipulator. He didn't quite get it right at the time that he was suppose to go in there and do some sort of ID. How dare I say that. I said that because the inference from all of this evidence and facts is that we have

some actors here that have not come here before you. A driver of the vehicle with the owner in there while the owner is passively doing whatever this person tells him to do. Yes, I finally agreed to take this guy to the hospital, he insisted. We get to the hospital, the driver talks, not me. The driver goes back, talks, not me. And we go back [C105]to Mackie's, why. I am sorry, you know, a guy does you a favor washes your car, how far do you go to having him determine where the heck you are going in your own vehicle. Common sense tells you that is something else at play here. Why did they go back Mackie's. To have a drink. Why go back to Mackie's. Why spend three or four minutes with a seventeen year old talking to somebody who is a peer of Mr. Johnnie, but no basis or knowledge of why he looks up to him.

What was found in this child's pocket. I speak of a child as a seventeen year old as compared to adult males. Forty bags. You know darn well what was going on out there in the street in front of Mackie's. You know darn well. Johnnie seems to be a player here. He seems to have certain control over what people will do and say.

So let's get to what supposedly happened out here and see if any story finally, finally has some credible consistency. I am going to suggest to you I am going to look at Mr. Evans and Mr. Johnnie, and I am going to look at just Mr. Johnnie, because again, I fear again, our law is frightening on this aspect. Well, okay, we will discard that witness, but guess what we have one clear present witness that comes across and tells us something that we can

hang our hat on. Well, Mr. Johnnie can't [C106]hang his hat, because he doesn't know the difference between a book or six, or is he fibbing to us.

A man who won't go to the police, won't volunteer anything at Mackie's, won't volunteer anything at the hospital. First he says oh, no, there was no police there. Then he says oh, yes, I guess the police were there. Oh, yes, I guess Johnnie talked to them. In fact, he even yelled from the car, hi, by the way, we are the ones that brought him here, and away they go. I am sorry, you know all of those inconsistencies in the story of Mr. Johnnie. Simple things, simple things that people normally would not do suddenly are glaring contradictions in Mr. Johnnie. Either the police are at the hospital or they are not. You either talk to the police at the hospital or not. You either have an opportunity to talk to the police at the hospital or not.

Which part of the testimony -- excuse me, I have to denigrate that, I won't tell it as being testimony. Mr. Johnnie's story contradicts even on these small parts; from books to six, from police being there to not being there, availability or not availability, and oh, okay back to Mackie's. The police came and got him. They called him by phone call and said come in here. You can imagine that phone call. We know you got something [C107]to tell us, come in here and talk to us. The 22nd, the 28th, that is six days.

Oh, so what does Mr. Johnnie give. Mr. Johnnie gives a height and approximate weight, and again let's be fair to civilians. We are not going to nail

them down precisely, but we are going to say height and weight, big, and approximate height. What lineup does he see, seated people, so he picks big.

Not only that, he also picks -- take a pick, book or six, which add to the problem here. It adds to it. It doesn't affirm. You can't say well, now they have consistent identification, because on one day he does it here, and another day he does it the other way. Why, because Mr. Johnnie didn't stand in front of you and point to one of these six, Judge, and say I picked out this person. He never told you that in this courtroom. He tells you he picked something out of some book that is not here in evidence before you. Some book.

Oh, yes, we are suppose to somehow take it that is my client in some book that we don't know about. Okay, Mr. Johnnie. Mr. Johnnie says oh, gosh, well, I am within eight feet, twelve feet, within certain feet. People's 5, People's 4, People's 9, if you will take a moment just to look at those.

[C108]THE COURT: Okay.

MR. RAGO: What are you told by these. These photographs are physical. We went out to the scene. We agree with the State that they truly and accurately represent Mackie's, including the locations of the lights, and I submit to the Court that because that was a commercial area there are tons and tons of street lights out there.

So, if somebody wants to say they could see, yes, unless all the lights were out, and they were not.

The lights were working. Look at all those lights across Mackie's front. They were circled for you. Add to those Harvey street lights, those big, huge vapor, or sodium vapor lights, whatever the heck it is. This is lit, so what would you expect somebody to be able to tell you, that they watched somebody walking this way, meaning north, and somebody, one person according to Mr. Johnnie, one person walking from the northeasterly to the southwesterly, and then eight feet away or so, this supposedly confrontation. Persons walking in this direction. Okay, you and I are approximately eight feet away. What do you see about my face, Judge. We are talking well lit. We are talking about a whole array of lights across Mackie's. We are talking about all the [C109]streets lights surrounding us. What can you see about my face. Take a look at my client, what do you see on his chin. No, you get about 6'2, you get about two forty, you don't see the most prominent thing that would make you look at my client and say he is the guy, his mole, right in the middle of his chin.

Oh, yes, after he beats on somebody and supposedly they fall into a doorway, does he turn this way keeping himself facing toward the wall, and going oh, no no, no. He will conveniently turn around so Mr. Johnnie gets another full look and then head north. After all, we have to have a real good identification here, so Mr. Johnnie gives us wonderful opportunities for his observation and capabilities of seeing it. Bunk, because right there is another physical thing is Mr. Johnnie telling the truth, and the answer is no, no. Books versus six,

mole versus nothing, 6'2, two hundred forty. Of course, I am not going to tell the police that I saw a guy two forty, with a pimple, or mole, or something big right in the middle of his client, right there. Right there.

You don't even have directional lighting coming from Mackie's. Which is only about maybe ten feet high, going down right towards him, and you could see from the [C110]physical layout that is exactly what has to happen with those lights right there. It is like a shining broad light coming right into the face, if you are going to believe Mr. Johnnie, he sees my client. Bunk, pure bunk.

Oh, Mr. Evans, now, not one, two. Let's get to Mr. Evans. Mr. Evans is at this north end. Mr. Evans is supposedly talking to the young lad. It would be to the right of Mr. Johnnie. If Mr. Johnnie's car is facing Mackie's, and we are going to make you now the Mackie store front, and here is the two doors, and here is the car parked here about, three, four, five feet away from the front area. As you can see, there is the sidewalk area, the same plane as the parking lot, so there is no obstructions there. Don't think we have blocks of vision here. There is the car parked here, there is the two doors.

According to Mr. Evans, he is standing over there talking to somebody. What does Mr. Johnnie tell you, oh no, no, no, from some group over here, guy comes over to the left side have the car, which is the driver's side and talks three to five minutes. Consistent, no.

Does Mr. Johnnie tell you that he sees anybody on that side, ever. No. Certainly, Mr. Johnnie is one person, and the young lad. Where the hell is Mr. Evans. [C111]Mr. Evans comes before you with his story, or he doesn't know about the car. Oh, yes, he was talking to two people in the car. Bunk. Again, you want to test credibility here and see if there is any identification that could be based upon this garbage of statements coming from people. You want to look at the demeanor of Mr. Johnnie. Look at how hesitant he was as to why they went back to Mackie's. Wait a minute, uh, uh. That is my car. I don't want to take this kid anywhere. No, this is not Good Samaritans out here. That driver, again I suggest to you, is taking a whole lot more control here than just being a nice person.

So, where is Johnnie. Where are these other people. No, you have Mr. Evans and you have Mr. Johnnie. The first time I said that in this last paragraph that Johnnie is the driver, I will call him the driver, where the heck is he, the one who always talks to the police, who directs what is going to happen, where people are going. And Mr. Evans, Mr. Evans can be some place, have a conversation with the soon to be attacked person, right where one of the circles for Mr. Johnnie, but be un -- hold on one second. Unavailable to Mr. Johnnie's sight, somehow hidden, somehow invisible. Oh, please. In an area lit as it is, with no obstructions. You can see [C112]there are no obstructions.

Well, according to Mr. Johnnie he gave two factors to the police to find some suspects, height,

weight. And here is the lineup that took out one of those two criteria. Everybody is seated. Go for bulk. What a wonderful basis for an identification, who is the bulkier.

In case there is something magical about the car, Judge, People's Exhibit Number 3 in evidence, Mr. Johnnie's car, there is nothing magical. There is no frosted windows. There is no obstructions. There is nothing hanging that would obscure the view, other than a small little thing from the rearview mirror, so you can see out the side mirror, the side windows. You can see out the front windshield. There is a standard little post there supporting the car roof. That certainly doesn't explain away Mr. Johnnie's inability to see Mr. Evans.

The Grand Jury transcript of Mr. Evans. Truthful testimony. As long as it seems to hold then I guess the State has to buy it, so they are certainly not going to buy that gee, all I see is this guy as I am leaving to go get my bucket. And we will deal with the bucket here a second. Gosh, I turned around and the guy is already [C113]laying on the ground. That doesn't make him worth spit.

Does he say in the meantime from having left this guy somebody walks past him with a bat in his hand, a large adult. No that is not what he told the Grand Jury, not until he was prompted and he realized he had to give up some more.

Oh, and this bucket, how convenient. It was around the corner, supposedly, and I don't know

which version you want to take, is it or is it not obstructed as far as being grabbed by some garbage can, but what a nice convenient way to play it either way as Mr. Evans would play it. Oh, no, I can reach around somehow, and oh, yes, I can still see what is happening back over there, even though I didn't first mention that somebody walked past me until further prompting. I mean, after all he has got to give something. Otherwise his testimony is not worth spit. His primary purpose was to find something in order to get himself out of the trouble, because he knows otherwise he is going to the penitentiary, and who can really test him, Mr. Johnnie. Mr. Johnnie can test Mr. Evans. Mr. Johnnie, one person. Mr. Evans, two people. Mr. Johnnie, where is Mr. Evans. Mr. Evans, oh, I am right there where Mr. Johnnie would be looking at me, if you want to take these two things [C114]and kind of see if they fit. Here I am right there. No, the young lad is not over on the other side, on the left side of the car coming to left side of the car to talk to the driver, then starting to head north where he is then accosted by the person who hits him. No, no, no. Mr. Evans says no, no, no. I am talking to him on the right side of what would be the car, which I don't know if it is there or isn't there, but okay, yes, it might be there, it is not there.

Remember again, his story on direct examination, cross, as compared to the Grand Jury. It is or isn't. Again, so, and then as I am turning and the kid is going one way, then somebody comes by me with a bat. Oh, sure. Does Mr. Evans ever tell the police, by the way the guy that was -- how close would they have to pass right there. Okay, over

there is the door, here is the northeasterly part of Mackie's about twelve feet away from the doors if you look at those photographs.

Here is Mr. Evans talking with the seventeen year old. Mr. Evans starts turning around to go over here to the corner, ten, fifteen, twelve feet. You can guess if you use those estimates. You can use the door as a standard doors for a commercial establishment and here is this guy walking right past them. He notices the bat. [C115]Does he keep his eyes down and not see a face. Does he ever tell the police, by the way, take a look at the face. There is a mole. Here is the clothing description.

What does he tell the cups, and supposedly the cops are running around trying to find somebody. It is so natural to pick out. Remember how the police want that, that one distinguishing characteristic, that one thing that stands out so even if the get the height wrong, or if the get the weight wrong, their it is, and a good police officer looks for that one solid striking characteristic, which Mr. Johnnie doesn't tell you about ever and doesn't tell the police ever, and doesn't tell the Grand Jury ever. Mr. Evans doesn't tell anybody ever about this at any one of these way, shape, or form times. His wonderful opportunities of identification.

By the way, Mr. Evans is not involved in any gang activity. He is talking to a seventeen year old kid on a bike. This would be his per group, sure. Add that to the credibility issues regarding Mr. Evans. Mr. Johnnie was led around by the driver.

That lends itself to wonderful credibility issues as well.

What others issues do we have here, Judge. Mr. Johnnie might have said something here very validly [C116]and it sounds innocent enough, but at least Mr. Johnnie admitted that he never ever saw my client before. If he watched a beating and saw this guy approach and sees this guy turning around, and of course, giving him a wonderful opportunity to see this assailant full face, and never mentions one striking characteristic, striking characteristic.

Mr. Johnnie has never seen my client before. Of course, now Mr. Evans says he has seen my client around. So of course, he would be more aware of facial distinctive characteristics. Of course, never mentions them, but let's get to the final point here.

Let's throw away Mr. Evans. Do we have enough with Mr. Johnnie, who seemingly is a little bit cleaner, and I won't be facetious and say the State would be more happy that he is a little bit closer to the casting group, or the kind of witness they would like.

So, is Mr. Johnnie sufficient. Is he sufficiently believable and his identification credible enough to sustain a conviction beyond a reasonable doubt. Let's reiterate; book versus six pictures. Wonderful description. Two aspects; supposedly bulk, and height. Again, you know what is missing. When it comes to the lineup ID, half of those criteria is taken away, but one [C117]is added here. See if Mr.

Johnnie is stuck with the book, the only one he saw in the book and he saw at the sit down lineup was one person. Well, that kind of gives you a real good hint here. If you want to say that of the six -- well, we will even be nicer to the State here, and again these are arguments I have to make, Judge, because the law of the case here, I still suggest to you that Mr. Johnnie should not be -- I am sorry, the officer should not have been allowed to testify whatsoever regarding the six, People's Exhibit 8. One of six, doesn't see any of the other five from People's 8 in the sit down lineup.

Mr. Johnnie doesn't see Mr. Evans. Mr. Johnnie has somebody coming from the lefthand, somebody else from the right. Mr. Johnnie has a three to five minute conversation. Mr. Johnnie is getting led around by his driver. The first named Johnnie. Mr. Johnnie doesn't want to get involved on the scene, at the hospital, back at Mackie's, and only when the police then say come does he try to come up with something.

Yes, Judge, you can blow off all my arguments. You can blow off each and every one of these points; inconsistencies between the respective witnesses. You can try to flip flop them around, balancing them and try [C118]to perhaps even accept parts of testimony and not other parts of testimony, and say okay, we are left with at least one witness who is credible and that identification is sufficient.

Judge, we suggest to you when you look at everything here in the way that people normally act,

and what people would normally say when given those opportunities, what happened out there was far different, far different. And somebody has to take the fall and it got oops as to who was suppose to take the fall, because again, People's Exhibit Number 8, number two is picked.

When you had a real witness standing in front of you, Mr. Evans, and I am not vouching for his credibility. He says I picked number two. Judge, acquittal is appropriate here. Thank you.

THE COURT: Okay. State, do you need any time?

MR. GOLDEN: I am ready, Judge.

REBUTTAL ARGUMENT

BY MR. GOLDEN:

Judge, this is a case about identification, and in this case identification equals recognition. The question is when they looked at the lineup did they recognize Lawrence Owens as the man who killed Kermit; Ramon Nelson, and the answer is an emphatic yes, Judge.

[C119]Maurice Johnnie does not know William Evans. William Evans does not know Maurice Johnnie. Yet, independently each of these men looked at a lineup and picked this guy out as the killer, and they did that because he is the killer. And that is the important thing, Judge.

Now, counsel wants to talk about all of the alleged inconsistencies about what happened. When Maurice Johnnie went there that night to Mackie's Lounge, he thought he was going there just to stop and have his friend walk into the store, his friend's friend. He doesn't even know who is in the back seat. Nothing special there.

He sees young Ramon come up to the car. That draws his attention as Ramon is talking with Johnnie Morgan. That is something that might be out of the ordinary that would draw his attention. He is not paying attention to everybody else in the parking lot, and if he came in here and told you he was, Judge, you would not believe him, and the reason is that is not what normal people do when we just go out on routine errands, and that is what Maurice Johnnie thought he was doing that night until Lawrence Owens turned that errand into his own mission of death.

Williams Evans told you that he was talking with [C120]Ramon. He left. From the Grand Jury transcript, which is substantive evidence, he went and talked with somebody at the car, just like Maurice Johnnie said. William Evans sees Lawrence Owens come by. He recognizes him from being in the neighborhood, doesn't know his name, has no ax to grind against him, sees him walking with a bat, and another man,

He recognizes the other man, because he sees the guy with the bat. Maurice Johnnie is watching this young had ride his bike, attempt to turn around and

his attention is drawn to Lawrence Owens standing there with the bat beating a child in the head at least three times, so severely that he crushed his skull and fractured and kills him.

How do we know this is consistent, Judge, William Evans runs over to help his friend Ramon. Maurice Johnnie says some guy that I don't know helped put him in the car and they then drive to the hospital. Maurice Johnnie and Johnnie Morgan they drop him off. They go back to the Mackie's Lounge, and counsel says why do they go back. They were missing the person from the back seat, Judge.

And when they got there, Johnnie Morgan talked to the police and gave some information. Maurice Johnnie is not [C121]a person who that night took the initiative to get involved. He is not somebody that was so hell bent on coming against Lawrence Owens, who he has never seen before. He came later, Judge, when the police asked him and did what a citizen is suppose to do. He told them what he saw, and looked at a photo array, and he picked out the defendant. A month later he looked at a lineup. He picked out the defendant. The same defendant that William Evans, who doesn't know Maurice Johnnie picked out. That is an amazing amount of coincidence, Judge.

Regardless of the mole on his chin, he is guilty based on those two independent identifications, each of which corroborates the other. And keep in mind, Judge, when you are judging the credibility of William Evans, he is no saint, he testified before that

Grand Jury and he made that identification in the police department before he picked up his new case. That is not a motive for him to lie, Judge. His testimony at the Grand Jury is consistent and that is further corroboration. You have enough evidence to find this defendant guilty, Judge, and we would ask that you do so.

THE COURT: After hearing this case, I think all of the witnesses skirted the real issue. The issue to me was you have a seventeen year old youth on a bike who is [C122]a drug dealer, who Larry Owens knew he was a drug dealer. Larry Owens wanted to knock him off. I think the State's evidence has proved that fact. Finding of guilty of murder. A month date for motions and --

MR. GOLDEN: Yes, Judge. I believe I am on trial the week of the 4th, so if we could continue it some time the next week.

MR. RAGO: To avoid any possibility of my waiving any errors that I should raise on post trial motion before you, depending on the availability of the transcript of the testimony had at this trial, on good cause the Court can extend the thirty days beyond that month.

THE COURT: How about December 7th?

MR. GOLDEN: I think I will be on trial in Bridgeview, Judge.

THE COURT: We will get a date that date.

MR. GOLDEN: Okay.

THE COURT: Just to protect the record.

MR. RAGO: That is fine.

MR. GOLDEN: Judge, I would agree to a later date.

THE COURT: What date?

MR. RAGO: The next week.

MR. GOLDEN: If the transcript is not available we can deal with it that day, but I will waive the thirty [C123]days up until the next date.

THE COURT: The 8th is the thirtieth day.

MR. RAGO: Judge, it looks like December 4th would be a better status date, because you have all those other dates probably marked as being busy in this courtroom. It will only be for status.

MR. GOLDEN: If it is just for status, that is fine.

THE COURT: 12/4.

MR. GOLDEN: Your Honor, at this time we ask to revoke bond.

THE COURT: What is the bond set at now?

MR. GOLDEN: It is no bail, Judge. I apologize.

THE COURT: PSI ordered. By agreement, 12/4.

MR. GOLDEN: We just ask leave to withdraw our exhibits at this point.

THE COURT: Okay, go ahead.

16. (WHICH matter was continued until the 4th day of December, 2000.)

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

UNITED STATES OF AMERICA *ex rel.* LAWRENCE OWENS,	)	Docket No. 08 C 7159
	)	Chicago, Illinois
	)	July 28, 2015
Petitioner,	)	9:45 a.m.
	)	
v.	)	
	)	
STEPHEN DUNCAN, Warden, Lawrence Correctional Center,	)	
	)	
Respondent.	)	

TRANSCRIPT OF PROCEEDINGS - Motion Hearing BEFORE THE HONORABLE THOMAS M. DURKIN

APPEARANCES:

For the Petitioner: JENNER & BLOCK LLP by
MR. ANDREW W VAIL
MR. SKYLER J.
SILVERTRUST
353 N. Clark Street
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For the Respondent: HONORABLE LISA MURRAY MADIGAN

ATTORNEY GENERAL
STATE OF ILLINOIS by
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For Cook County: HONORABLE ANITA M. ALVAREZ
COOK COUNTY STATE'S ATTORNEY by
MR. MICHAEL P GOLDEN
Assistant State's Attorney
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[2]APPEARANCES (Cont'd.):

HONORABLE ANITA M. ALVAREZ
COOK COUNTY STATE'S ATTORNEY by
MR. ALAN J. SPELLBERG
Assistant State's Attorney
Supervisor Criminal Appeals
300 Richard J. Daley Center
Chicago, IL 60602

Also Present: MR. ROBERT S. NATHAN
(as noted)

Court Reporter: LAURA R. RENKE, CSR, RDR, CRR
Official Court Reporter

[3](In open court.)

THE COURT: Okay.

THE CLERK: 08 C 7159, Owens v. Acevedo.

THE COURT: Good morning.

MR. FISCHER: Good morning, your Honor. Assistant Attorney General Garson Fischer for the respondent.

I've also got two representatives of the Cook County State's Attorney's office here with us.

THE COURT: Oh.

MR. GOLDEN: Michael Golden from the Cook County State's Attorney's office.

MR. SPELLBERG: And Alan Spellberg, also from the Cook County State's Attorney office.

THE COURT: All right. Thanks for coming in. You could have come in by phone if you want, but I appreciate your coming down to the courthouse.

MR. NATHAN: Good morning, your Honor. Robert Nathan on behalf of Mr. Owens.

THE COURT: All right.

MR. VAIL: Good morning, your Honor. Andrew Vail, with my colleague Skyler Silvertrust, from Jenner & Block.

THE COURT: All right. First up is a motion by Mr. Nathan to withdraw. Any objection?

MR. FISCHER: No, your Honor.

THE COURT: Mr. Nathan, I'll grant your motion to [4]withdraw. Sorry you had to wait, but –

MR. NATHAN: No problem, Judge. Thank you.

THE COURT: -- it's been a long morning.

And has Jenner put an appearance on file?

MR. VAIL: We submitted it as part of an exhibit, but we'll now file the appearance with the Court, yes.

THE COURT: All right. Very good.

All right. Thanks, Mr. Nathan.

MR. NATHAN: Thank you, Judge.

(Mr. Nathan exits the courtroom.)

THE COURT: Okay. We have the issue now of apparently the state literally following the -- or the Attorney General literally following the order of the 7th Circuit, which is to say you intend to retry -- or the state intends to retry Mr. Owens. Correct?

MR. FISCHER: Yes, your Honor. The state -- or respondent's concern is that we do have a cert petition on file. And since the habeas grant would simply order petitioner's release, as opposed to in a -- you know, say in the State Supreme Court actually directly vacating the conviction, if proceedings begin in the Cook County Circuit Court, it will be the state court then subsequently vacating his conviction to begin new proceedings.

And we don't know. It's unclear from the case law what effect that might have on the pending cert petition. So [5]we're trying to defend the current conviction, but at the same time, the 120 days to decide to retry him from the conditional writ expired on July 21st. And these two parallel tracks may conflict with each other in some way.

So we're trying to move forward with our cert petition, defending the current conviction. But we do want to inform the Court that the Cook County State's Attorney's office has decided they're going to retry should the writ be passed to the state court from this Court.

THE COURT: All right. Well, I'm unfamiliar with the process. I -- there aren't many of these cases that come through here, and those that do, I certainly haven't dealt with them before. I'm relatively new.

So you have an order from the appellate court, from the 7th Circuit, which reads -- to get the language precisely -- "So we reverse the judgment

denying Owens relief and give the state 120 days in which to decide whether to retry him. If it does not decide within that period to retry him, he must be released from prison."

I have an affidavit from Mr. Golden saying the state intends to retry him.

MR. GOLDEN: Yes, Judge, we do.

THE COURT: Does that -- and I want to hear from Mr. Owens' counsel. But does that fulfill the requirements of the 7th Circuit's order, understanding you can't just say, "We [6]intend to retry him," and then not do it within a reasonable period of time?

MR. VAIL: Right, your Honor. And I'm going to allow my associate the opportunity to respond to this Court. But I do want to say that we did have the opportunity to spend some time talking through some of the practical concerns and issues surrounding these questions with counsel outside.

And one issue, as the Court's now touching on, is my client's sitting incarcerated -- right? -- and he has a right under the Illinois law to a trial within 120 days. Now --

THE COURT: Well, the -- under Illinois law -- the 120 days, is that referencing a state Speedy Trial

MR. FISCHER: We have --

THE COURT: -- statute or the 120 days in the 7th Circuit order?

MR. FISCHER: -- effectively two 120-day periods here. We have the 120 days from the conditional writ, and then also the statutory -- the Speedy Trial statute in Illinois for a defendant who is in custody is 120-day --

THE COURT: I see.

MR. FISCHER: -- period.

THE COURT: Okay. All right.

MR. VAIL: So given that, your Honor, and given concern surrounding that, it's our view that this needs to be moved over to the Circuit Court of Cook County, to the criminal [7]court, whether it's Judge Biebel who gets this case and then determines how --

THE COURT: Well, he's retired, so whoever takes his place.

MR. VAIL: Well, yeah, exactly, but how this needs to proceed. We need to get to go there.

But I do want to give my colleague the opportunity to --

THE COURT: All right.

MR. VAIL: -- respond to the bigger question before this Court.

THE COURT: Go ahead.

MR. SILVERTRUST: Your Honor, Skyler Silvertrust on behalf of Mr. Owens.

Yeah, I think we appreciate that the state is willing to announce its intent to retry him, but the problem is that really doesn't get Mr. Owens anywhere. He has a conviction that's essentially been invalidated by the 7th Circuit. 7th Circuit gave 120 days within which to decide whether or not to retry him. That 120 days has expired, and now we're in a position where Mr. Owens is basically being held without a valid conviction and without any charges that have actually been filed against him in a state court.

So we don't have the opportunity to seek bail on Mr. Owens' behalf, and we don't even have the opportunity to [8]obtain discovery that we would need to defend a case that may be brought against him.

THE COURT: Well, how would the state proceed? What's the next step within the State's Attorney's office on this case?

MR. GOLDEN: Typically, Judge, if this was an appellate -- state appellate court, the mandate would issue to the trial court. Once it was spread of record at the trial court, the Speedy Trial statute term would begin at that time. That would be the typical course on a state appeal.

Quite honestly, I'm not sure on the habeas under this circumstance --

MR. SPELLBERG: Right.

MR. GOLDEN: -- where the -- there's a pending petition for writ of cert, and we would -- it would be our belief that that should stay the proceedings until the Supreme Court has a chance to either deny or grant the writ.

THE COURT: Well, there was a request to stay filed with the 7th Circuit, correct?

MR. FISCHER: There was a request to stay filed with the 7th Circuit and also with Justice Kagan, who is the circuit justice, and they both -- they both denied those requests to stay.

As we mentioned in our status report, a couple of facts have changed since then. The cert petition is now [9]actually on file. And just, you know, acknowledging the practicalities of the way the Supreme Court does their business, we won't have a decision on the cert petition until October, in all likelihood.

THE COURT: Well --

MR. SPELLBERG: Your Honor --

THE COURT: Go ahead.

MR. SPELLBERG: -- can I say one thing?

Just in terms of the sort of jurisdictional problem that we have in the state courts, under Illinois law, the Circuit Court of Cook County cannot take

jurisdiction back over this case unless it were to vacate the judgment and vacate the conviction. That's the only way that we can start our process on behalf of the People of the State of Illinois.

THE COURT: Who would vacate it?

MR. SPELLBERG: The Circuit Court of Cook County. It would be the chief judge. Judge Kazimirski is currently acting chief judge of the Criminal Division.

THE COURT: All right. Well, if I remanded this case to the state court as of this moment -- I don't know if I have the power to do so, but if I entered an order to say the case is remanded to the circuit court, Judge Kazimirski then would pursuant -- I assume pursuant to the 7th Circuit opinion vacate the conviction, or would he stay the case while he's waiting for the cert petition to be decided?

[10]MR. SPELLBERG: I think he would be obligated pursuant to your order to actually vacate the conviction. We would have to begin our process at that point.

THE COURT: All right. And what is wrong with doing that, if anything? Is there an objection to that?

MR. FISCHER: Well, your Honor, the concern from the respondent's perspective is, obviously, if, you know, the State Supreme Court had vacated conviction and it had gone up and a cert petition was successful, overturning this or reversing the state

court's judgment vacating the conviction would revive the conviction.

Here the grant of the habeas writ doesn't in and of itself vacate the conviction. It orders the petitioner's release unless the constitutional violation is corrected, in this case, by granting him a retrial.

It is unclear -- not conceding that -- that it would be a problem, but it's unclear whether if we were successful on our cert petition reversing the 7th Circuit's conditional habeas grant would have any effect on the subsequent action of the state court to vacate the conviction.

In other words, it's possible that the state court vacating the conviction we're trying to defend right now would moot or end our current appeal in from the habeas petition.

MR. SPELLBERG: And, your Honor, if I could add one more thing.

[11]THE COURT: Sure.

MR. SPELLBERG: It's our belief that under Illinois law, once the conviction is vacated, we can't go back and reinstate it at that point.

THE COURT: Yeah, that was my next question, if there would be a double jeopardy issue --

MR. SPELLBERG: Right.

THE COURT: -- on that. You would have to retry him even if the 7th Circuit --

MR. SPELLBERG: Yes.

THE COURT: -- 7th Circuit's decision were reversed by the Supreme Court.

MR. SPELLBERG: Yes.

THE COURT: And we won't -- we're just talking about a cert grant, not even a reversal. It could take another year before it got briefed, argued, and decided by the Supreme Court if they granted cert.

MR. FISCHER: Yes, your Honor. We did ask for summary reversal, which is historically in these types of cases -- *Musladin, Wright v. Van Patten* -- the way that the U.S. Supreme Court has dealt with arguments such as the ones we raise in our cert petition.

THE COURT: Okay. So it may be more expedited.

MR. FISCHER: And just a couple of quick observations. One is because habeas is an equitable remedy, as we cited in [12]our status motion, the Court does have the authority to extend the period of time in which the state has to correct the constitutional violation before issuing the writ.

And, two, one option in terms of discovery and issues like that is we could try to proceed either, you know, just between counsel in terms of whatever

materials need to be presented back and forth or through this Court while the cert petition is pending rather than remanding it to the state court where it might have these, you know, considerations with mootness and double jeopardy that would prove problematic.

THE COURT: Well, could a trial date be set in state court? Could it be assigned to a trial judge and a trial date set with a conviction on the books that hasn't been vacated?

MR. SPELLBERG: I don't believe so, your Honor.

THE COURT: Okay. With the full understanding of all parties that it might get reversed, so a speedy trial may have to occur upon the -- well, it might get -- if it's reversed, you wouldn't have a trial; if it got affirmed, you would have to proceed quickly with a trial.

MR. SPELLBERG: The problem, your Honor, is that from the state court judge's perspective, there is a binding final conviction, which they can't act contrary to without sort of a revestment of jurisdiction and our -- and taking a position contrary to that. And then once they do that, our understanding of Illinois law is they can't go back.

[13]THE COURT: Okay.

Well, what's the view of the plaintiff? I mainly -- it may very well be you want to file a written response to the status report of the Attorney General

or suggest how you want to proceed. I have to follow the 7th Circuit's -- of course, I have to follow their judgment. But what they said was the state has 120 days in which to decide whether to retry him.

Now, taken literally, they have given that notice to you. I think the clear intent is to get him retried one way or the other under this order absent some reversal by the Supreme Court. And mere notice is not enough. It's going to have to be some action beyond just, you know, "We intend to retry him, but we aren't going to say when."

So what do you want to do? Do you want to file something in writing to -- this is kind of a thorny issue. I'm happy to take anything you have in writing, or you can respond orally now.

MR. VAIL: Yes, your Honor. I believe we can respond orally now, and if the Court thinks we should supplement that with writing.

But in short, the concern identified with the Attorney General's office is a concern that the Supreme Court at some point might decide to take their cert petition and reverse the decision of the 7th Circuit. That was the concern that they raised with Justice Kagan and the Supreme Court that she [14]rejected. They are now asking you to give them the relief that both the 7th Circuit and the Supreme Court denied them.

And as the Court points out, that was done, my guess, is because, as Mr. Silvertrust explained, Mr. Owens is sitting in prison without a valid conviction,

with the right to a speedy -- with -- we all agreed outside that at this point the clock should be ticking, the 120 days. So we can't be put in a place where state court proceedings have not been initiated, but our 120 days are starting. And we need discovery. We need a judge presiding over the issues in that matter.

This Court should issue a mandate sending this case back to the Cook County Criminal Court and let the presiding judge deal with the concerns, or counsel can reapproach the United States Supreme Court and say, "Here's where things are. If you're going to hear this, step down and stay this. I'm asking again."

But I don't think the appropriate step is for here today for a further stay to be entered in the face of that record.

THE COURT: All right. Anything else from the state?

MR. FISCHER: No, your Honor.

THE COURT: All right. Well, I'm going to -- can you provide me with a copy of the stay petitions you made to the 7th Circuit and to the Supreme Court?

MR. FISCHER: Yes, your Honor.

[15]THE COURT: All right. Let me see those. Were they responded to, or were they just denied without response?

MR. FISCHER: They were responded to, your Honor.

THE COURT: Why don't you give me a set of briefs.

MR. FISCHER: Yes, your Honor.

Just in terms of dealing with ECF on this type of filing, should I e-mail it to your chambers?

THE COURT: That's fine.

MR. FISCHER: Okay.

THE COURT: Yeah.

MR. FISCHER: Thank you, your Honor.

THE COURT: That's fine. You obviously have copies of it already, correct?

MR. SILVERTRUST: Yes, your Honor.

THE COURT: Okay. All right. I'd just like to read those. But I'm going to enter an order quickly on this because -- do you have witnesses? Have you started to do investigation of --

MR. GOLDEN: We have started the investigation to locate the witnesses, Judge.

THE COURT: Okay. You should.

MR. GOLDEN: Yes.

THE COURT: Because I am likely -- absent me reading something I don't expect to find -- to grant the writ and follow this order and then remand the case to the Circuit Court [16]of Cook County for trial. And I'll likely do that this week.

But I would like to get those briefs today, if possible, if I want to reread them.

MR. FISCHER: You will have them as soon as I return to the office.

THE COURT: But absent hearing any other argument on why I shouldn't, that's my intent.

Okay. Thank you all.

MULTIPLE COUNSEL: Thank you, your Honor.

THE COURT: Okay.

(Concluded at 10:00 a.m.)

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

UNITED STATES OF AMERICA *ex rel.* LAWRENCE OWENS,	)	No. 08 C 7159
	)	Judge Thomas M. Durkin
Petitioner,	)	
v.	)	
STEPHEN DUNCAN, Warden, Lawrence Correctional Center,	)	
Respondent.	)	

ORDER

Upon consideration of Respondent's Status Report dated July 21, 2015, the arguments presented to the Court at the July 28, 2015 conference, and the papers submitted by Respondent for the Court's review, it is hereby ordered that Respondent's request for an extension of time to initiate criminal retrial proceedings in state court pending a ruling on Respondent's petition for a writ of certiorari is DENIED. Pursuant to the grant of a writ of habeas corpus, Petitioner must be released from custody by no later than August 4, 2015, unless, on or before that date, the State of Illinois initiates retrial proceedings, pursuant to the Illinois Criminal Code,

in the Circuit Court of Cook County, Criminal Division.

ENTERED:

/s/ Thomas M. Durkin
Honorable Thomas M. Durkin
United States District Judge

Dated: July 29, 2015

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT-CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS	)	
	)	
vs.	)	CASE NO: 9
	)	
LARRY OWENS	)	

PEOPLE'S CONDITIONAL MOTION FOR REVESTMENT OF JURISDICTION IN THIS COURT TO COMPLY WITH THE ORDER OF THE SEVENTH CIRCUIT COURT OF APPEALS

Now come the PEOPLE OF THE STATE OF ILLINOIS, by their Attorney, ANITA ALVAREZ, State's Attorney of Cook County, through her Assistant, Michael Golden respectfully request this Honorable Court Conditionally Revest Jurisdiction of the instant matter in this Court. In support thereof, the People submit the following:

1. Defendant was charged with the First Degree Murder of Ramon Nelson under 99 CR 25287.

2. Following a bench trial before the Honorable Judge Joseph Macellaio, defendant was found guilty of First Degree Murder on November 8, 2000.

3. After Judge Macellaio denied defendant's post-trial motions, he sentenced defendant to 25 years in the Illinois Department of Corrections on January 12, 2001.

4. On direct appeal, the Illinois Appellate Court affirmed defendant's conviction and sentence. *People v. Owens*, 335 Ill. App. 3d 1191 (1st Dist. 2002).

5. Defendant filed a pro se postconviction petition on or about September 10, 2003. That petition was superseded by a supplemental petition filed by appointed counsel on June 16, 2008.

6. On December 15, 2008, prior to the resolution of his postconviction petition, defendant filed a Petition for a Writ of Habeas Corpus in the United States District Court for the Northern District of Illinois. In that petition, defendant raised five separate grounds for relief.

7. On September 29, 2009, the defendant's postconviction petition was dismissed by the trial court without an evidentiary hearing.

8. The Illinois Appellate Court affirmed the dismissal of defendant's postconviction

petition on March 21, 2011. *People v. Owens*, 409 Ill. App. 3d 1157 (1st Dist. 2011).

9. On April 23, 2012, the Honorable Judge Rebecca Pallmeyer found that three of the claims raised by defendant were either noncognizable or were procedurally defaulted. In the same opinion, Judge Pallmeyer denied relief for defendant's claim that Judge Macellaio improperly based his decision on extra-judicial findings of motive for which there was no evidence. However, Judge Pallmeyer found that defendant's claims regarding ineffective assistance of counsel merited an evidentiary hearing. *U.S. ex rel. Owens v. Acevedo*, 2012 U.S. Dist. LEXIS 56890 (N.D. Ill., 2012).

10. On March 18 and 19, 2013, an evidentiary hearing was held on defendant's claims of ineffective assistance of counsel. The hearing was held before the Honorable Judge Thomas Durkin to whom the matter had been reassigned on January 14, 2013.

11. On February 11, 2014, Judge Durkin issued an opinion denying habeas relief to defendant. In addition, pursuant to Rule 11(a) of the Rules Governing section 2254 cases, Judge Durkin refused to issue a certificate of appealability in the case. *Owens v. Hodge*, 2014 U.S. Dist. LEXIS 16532 (N.D. Ill., 2013).

12. Despite the failure of the District Court Judges to issue a certificate of appealability, on March 23, 2015, the United States Court of Appeals for the Seventh Circuit reversed the District Court's denial of the petition for federal habeas corpus relief. Specifically, the court found that defendant was entitled to relief because Judge Macellaio relied on a motive for the killing for which no evidence was presented. *Owens v. Duncan*, 781 F.3d 360 (7th Cir., 2015)

13. The Seventh Circuit's opinion was based upon trial error and not on the sufficiency of the evidence presented at trial. The court gave "the state 120 days in which to decide whether to retry him. If it does not decide within that period to retry him, he must be released from prison." 781 F.3d at 366.

14. The Illinois Attorney General filed motions to stay the mandate in both the Seventh Circuit and the Supreme Court. Those motions were denied on March 30, 2015 and May 11, 2015, respectively.

15. At a status hearing on July 21, 2015 the Illinois Attorney General notified Judge Durkin that the People intend to retry defendant.

16. In a letter dated July 24, 2015, the Supreme Court of the United States ordered Defendant

to file a response to the Petition for Writ of Certiorari.

17. At a status hearing on July 28, 2015, the Illinois Attorney General asked Judge Durkin to stay the issuance of the mandate until the Supreme Court rules on the Petition for Writ of Certiorari.

18. On July 28, 2015, the Illinois Attorney General filed with the Supreme Court a second "Application to Recall and Stay Mandate Pending the Disposition of A Petition for Certiorari." In this filing, the Attorney General pointed out that a Petition for Certiorari was now on file in the case and that the Supreme Court had ordered the defendant to file a brief in opposition, despite defendant's previous notice to the Court that he did not intend to file such a brief. That Application was denied July 30, 2015 by Justice Kagan.

19. On July 29, 2015, Judge Durkin entered the following order:

> Upon consideration of Respondent's Status Report dated July 21, 2015, the arguments presented to the Court at the July 28, 2015 conference, and the papers submitted by Respondent for the Court's review, it is hereby ordered that Respondent's request for an extension of time to initiate criminal

> retrial proceedings in state court pending a ruling on Respondent's petition for a writ of certiorari is DENIED. Pursuant to the grant of a writ of habeas corpus, Petitioner must be released from custody by no later than August 4, 2015, unless, on or before that date, the State of Illinois initiates retrial proceedings, pursuant to the Illinois Criminal Code, in the Circuit Court of Cook County, Criminal Division.

20. On July 30, 2015 the Illinois Attorney General filed an "Application to Recall and Stay Mandate Pending the Disposition of A Petition for Certiorari" and, per the Rules of the Supreme Court, asked that this Application be directed to Justice Anthony Scalia. As of the date of this filing, Justice Scalia has not ruled on the Application.

21. In the case of a remand from an Illinois court of review, "The filing of the mandate in the circuit court vests that court with jurisdiction, and the speedy-trial period begins to run on the date that the mandate is filed and not the date that the mandate is issued by the appellate court." *People v. Jones*, 104 Ill. 2d 268, 284 (1984). To the best of the People's knowledge, neither the Seventh Circuit Court of Appeals nor the United States District Court has issued a mandate to the Circuit Court of Cook County.

22. While the Seventh Circuit certainly has the authority to order defendant's release from custody, that court does not have the authority to vacate defendant's judgment of conviction. See e.g. *United States ex rel. Lawrence v. Woods*, 432 F.2d 1072, 1076 (7th Cir. 1970) ("because lower federal courts exercise no appellate jurisdiction over state tribunals, decisions of lower federal courts are not conclusive on state courts."); *Magwood v. Smith*, 791 F.2d 1438, 1450 (11th Cir. 1986) ("The State of Alabama correctly notes that a federal district court or court of appeals has no appellate jurisdiction over a state criminal case and hence has no authority to "remand" a case to the state courts. The federal habeas corpus statute provides a mechanism for collateral, not appellate review. A federal court, however, is authorized to grant a conditional writ of habeas corpus.")

23. A trial court is without jurisdiction to modify a final judgment more than 30 days after entry, or after an accused has begun to serve his sentence. See e.g. *People v. Adams*, 144 Ill. 2d 381, 393 (1991) ("once a defendant has been sentenced and placed into the custody of the Department of Corrections, the court rendering judgment and imposing sentence loses jurisdiction over the case and is without power to vacate, set aside[,] or modify the judgment") *People v. Lance*, 25 Ill. 2d 455, 185 N.E.2d 221 (1962) *Brockmeyer v. Duncan*, 18 Ill. 2d 502, 165 N.E.2d 294 (1960); *People v.*

Drysch, 311 Ill. 342, 143 N.E. 100 [(]1924) *People v. Rudecki*, 309 Ill. 125, 140 N.E. 832 (1923); *People v. Dzielski*, 130 Ill. App. 2d 581, 264 N.E.2d 426 (2nd Dist. 1970).

24. This court originally lost jurisdiction of the instant matter on February 11, 2001, which is thirty days after the date defendant was sentenced. This court obtained limited jurisdiction of this case on September 10, 2003 when defendant filed his petition for postconviction relief. This jurisdiction was limited to consideration of claims cognizable under the Post Conviction Hearing Act. However, this court once again lost jurisdiction on October 29, 2009, thirty days after this court's judgment dismissing the postconviction petition.

25. The only exception to this strict jurisdictional limitation is the "doctrine of revestment," which requires "(1) active participation by the parties; (2) without objection; (3) in proceedings inconsistent with the merits of the earlier judgment" *People v. Bailey*, 2014 IL 115459, P16 (Ill. 2014). Without revestment, the circuit courts are bound by the last state appellate court judgment, which in this case rejected the same claim and affirmed the conviction. See *People ex rel. Burris v. Progressive Land Developers. Inc.*, 151 Ill. 2d 285 (1992) ("Under the doctrine of res judicata, a final judgment on the merits rendered by a court of competent jurisdiction is conclusive as

to the rights of the parties and their privies. That judgment is an **absolute bar** to subsequent actions involving the same claims or demands by the same parties or their privies.") (citations omitted, emphasis added).

26. Ordinarily, when a Federal Court grants habeas relief to a defendant and orders a retrial, the People move to vacate the underlying judgment of conviction and revest jurisdiction in the trial court.

27. The procedural posture of this case leaves the People in an untenable position. If the People agree at this time to vacate the judgment of conviction, then the pending Petition for Certiorari may be rendered moot. Further, even if the issue is not rendered moot and the Supreme Court ultimately grants the relief the People are seeking, it is unclear whether the judgment of conviction would be automatically reinstated. But see *People v. Mink*, 141 Ill. 2d 163 (1990) (holding that prior to sentencing a trial court has the jurisdiction to reverse its prior order granting a new trial but that after sentencing the court may not do so); *People v. Thompson*, 38 Ill. App. 3d 101 (1st Dist. 1976).

28. On the other hand, if the People fail to initiate a re-trial, the Illinois Department of Corrections must release a convicted murderer before the People have exhausted their right to seek review of the Seventh Circuit's order.

29. It is the People's intent to comply with the federal courts' orders without relinquishing the People's valid interest in seeking review of those orders by the Supreme Court of the United States.

30. In the event that the Supreme Court of the United States denies the relief sought by the Attorney General, either by denying the Petition for Writ of Certiorari or by affirming the decision of the Seventh Circuit Court of Appeals, then this court should vacate the judgment of conviction and the matter should proceed to a retrial. In other words, under those circumstances, the People would actively participate, without objection, in proceedings inconsistent with the validity of the judgment of conviction previously entered in this case.

31. If however, the Supreme Court ultimately reverses the decision of the Seventh Circuit Court of Appeals, then the defendant's original conviction and sentence should stand. That is, the People's willingness to participate in these proceedings is subject to the objection that the judgment of conviction should not be vacated unless and until the Supreme Court either denies the People's petition for writ of certiorari or affirms the Seventh Circuit Court of Appeals in this matter.

WHEREFORE, subject to the objections and limitations noted above, the People hereby request that this court grant the People Leave to File a Motion to Vacate Judgment of Conviction and that this court enter and continue this Motion pending the resolution of this matter in the Supreme Court. If the Supreme Court either denies the Petition for Writ of Certiorari or affirms the Seventh Circuit decision then the People request that the Motion to Vacate Judgment be granted instanter. If the Supreme Court ultimately reverses the decision of the Seventh Circuit Court of Appeals, the People request that this matter be stricken from the call and

this court's original order of conviction and sentence be enforced.

Aug. 4, 2015

Respectfully Submitted,

ANITA ALVAREZ
State's Attorney of Cook County

BY: /s/ Michael Golden
Michael Golden
Assistant State's Attorney

SHEET No.

LINE No.

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT-CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS)
)
VS) No. 99 CR 25287
)
LARRY OWENS)

REPORT OF PROCEEDINGS in the above-entitled cause taken before the Hon. JOSEPH G. KAZMIERSKI, Judge of said court, on August 4, 2015.

PRESENT:

HON. ANITA M. ALVAREZ,
State's Attorney of Cook County, by
MR. MICHAEL GOLDEN,
Assistant State's Attorney
representing the People;

MR. ANDREW VAIL, MR. SKYLER SILVERTRUST,
Private Attorneys,
representing the Defendant.

Victoria A. Wronski
Official Court Reporter
#084-001457

[2]THE CLERK: Larry Owens.

THE COURT: Who's here today?

MR. VAIL: Good afternoon, your Honor. My name is Andrew Vail. This is my colleague, Skyler Silvertrust. We're here in response to the motion that the State filed in the People v. Owens matter.

THE COURT: Okay. Mr. Owens is here, I understand, too?

MR. GOLDEN: That's correct.

MR. VAIL: That's my understanding.

THE COURT: Bring him out, John.

MR. GOLDEN: For the record, Judge, Assistant State's Attorney Michael Golden on behalf of the People.

(Defendant brought out.)

THE COURT: The matter of Larry Owens.

The People have a motion today. What is that?

MR. GOLDEN: Yes, Judge. The 7th Circuit appellate court had granted habeas corpus relief to Mr. Owens. We were ordered to first determine within 120 days whether we intended to re-try him, and we filed a paper with the federal court indicating that we did.

Judge Thomas Durkin then gave us to today to institute the proceedings to do that.

As your Honor knows, the federal courts do not [3]have appellate jurisdiction. So while they can tell us conditionally that we cannot detain Mr. Owens pursuant to the judgment of conviction, they do not have the authority to vacate that conviction.

Ordinarily, we would do that on our own motion, Judge, and set the case down for trial.

However, in this case, we have a pending petition for writ to the U.S. Supreme Court. The defendant had been ordered by the Supreme Court to respond to that. Our concern, your Honor, is that if we were to vacate the judgment at this point two things may occur. One, we may moot our petition for writ; and, two, that there is no guarantee that if we were successful that the conviction could be reinstated automatically.

So I would suggest, your Honor, that we re-vest jurisdiction in this court pursuant to this motion, have it then sent back out to Markham where it was originally tried. If in fact the 7th Circuit is affirmed

or if the petition for writ is denied, that the order of conviction be vacated nunc pro tunc to today's date. The speedy trial term, any of that stuff, discovery could take place and we would do that on a parallel track.

[4]And that's the state's position, your Honor.

THE COURT: Is the copy of the last order of the district court attached to your motion?

MR. GOLDEN: I have one, your Honor.

THE COURT: It looks like it's cited in Point 19. Is that the gist of it?

MR. VAIL: I have a copy, if it will be of assistance to counsel and the court.

THE COURT: Sure.

(Tendering.)

THE COURT: Okay.

You want to say anything else?

MR. GOLDEN: No, Judge, not at this time.

THE COURT: Counsel?

MR. VAIL: Thank you, your Honor.

Again, Andrew Vail on behalf of petitioner Owens.

Your Honor, on behalf of Mr. Owens, we object to the state's motion, and we do so first because we do not believe that it complies with the order of the district court or the order of the 7th Circuit.

And to provide this court some additional background, the state has now sought to take the fifth bite at the apple in regards to seeking some court to [5]stay what Judge Posner ordered happen. And how that has happened procedurally is after Judge Posner issued his order requiring the state to determine within 120 days that they would elect to re-try Mr. Owens, they proceeded to ask the 7th Circuit to stay that order so that they could have time to have the decision reviewed in the United States Supreme Court. The 7th Circuit rejected that argument and denied their request.

After that happened, they then filed a petition with Justice Kagan, the Supreme Court associate justice who presides over this circuit asking that the United States Supreme Court stay the order of Judge Posner. So for the reasons they've explained to this court today, they argue they need an opportunity to have the Supreme Court hear this case before it goes forward as ordered by Judge Posner. Justice Kagan denied that request.

They then sought a similar relief from Judge Durkin in the district court and that was when they filed their initial status report -- strike that -- their status report with Judge Durkin announcing their election to re-try Mr. Owens, but asking that Judge Durkin not send this case back to this court based on

the very same arguments they're making to this court [6]today, that they have concern that if this court as it should vacates the prior conviction and initiates these re-trial proceedings, that they may lose the ability to have the United States Supreme Court review Judge Posner and the 7th Circuit's decision.

Judge Durkin heard that argument. We have a copy of the transcript from those proceedings. And he denied, he rejected their request as you see in his order to stay, or for an extension of time to initiate criminal re-trial proceedings in the state court. He denied that. And he ordered them to come over here and to re-try these proceedings, or Mr. Owens be released under the grant of writ of habeas corpus.

After that, there was an application made to Justice Kagan to re-consider the denial of the stay, and Justice Kagan denied that request.

After that denial, your Honor, they asked that Associate Justice Antonin Scalia hear their petition and take the case essentially from Justice Kagan to grant their stay, and there's been no stay granted by the United States Supreme Court.

And that, your Honor, is the proper procedural mechanism by which the state could and should seek a stay of the 7th Circuit Court's order and mandate. They [7]have not obtained that relief, and it's not appropriate for them to come to this court now and ask this court to give them the relief they've been denied on those many occasions.

So first, I don't believe that this complies with what they're asking in their conditional motion to comply with the direction and orders of the federal courts.

Second, in this court, what it appears they're essentially asking this court to allow to happen is that Mr. Owens would remain incarcerated on a prior conviction that the 7th Circuit has found to be unconstitutional, yet at the same time they want to initiate re-trial criminal proceedings against Mr. Owens for that same crime.

That seems untenable, and frankly, it seems like it would violate other constitutional protections that Mr. Owens has under both the United States and the Illinois Constitution. It is not as they explain in both their arguments to the federal court and in their papers how a re-trial proceeding ordinarily happens in this court. And their failure to either obtain a stay from the 7th Circuit or the Supreme Court, or the decision to wait so long as to now have some argument [8]that they're now at attention in regards to moving forward with the re-trial proceeding or seeking appellate relief based on the 7th Circuit's argument, that that sitting on their hands, that the United States Supreme Court, that the 7th Circuit and Judge Durkin's refusal to grant them a stay does not in any way create an exception to the rules and allow them to attempt to go forward in a manner that's both not proper, nor in my view would be a constitutional way to attempt to re-try Mr. Owens for the same crime.

And therefore, your Honor, as I said, we object to the motion and we believe it does not comply with the federal court's orders.

THE COURT: Okay.

Who was the judge in the federal court on the original petition for relief under habeas corpus? Was that Judge Durkin?

MR. VAIL: No, your Honor, actually Judge Rebecca Pallmeyer had the case before Judge Durkin, before I believe Judge Durkin was on the bench --

THE COURT: Oh, yes. I see it.

MR. VAIL: -- and she ruled in part on the motion.

THE COURT: Okay. I see it.

Let me finish reading the rest of this, [9]please.

(Short pause.)

THE COURT: Okay.

All parties through saying what they want to say?

MR. GOLDEN: Yes, your Honor.

THE COURT: Okay.

I looked at the motion of the people today for re-investment of jurisdiction in this court to comply with an order of 7th Circuit Court of Appeals. I have before me the order of the Honorable Thomas M. Durkin basically placing this case in a position which it is today, namely that the petitioner must be released from custody no later than August 4, 2015, unless on or before that date, the State of Illinois initiates re-trial proceedings pursuant to the Illinois Criminal Code.

Based on the order of Judge Durkin, I'm going to allow the people's motion for re-vestment of jurisdiction in this court, and the matter will be transferred to the presiding judge for District 6 for re-assignment and any further proceedings.

Do the parties have a date you wish to go out there on?

[10]MR. GOLDEN: Can we have a moment, Judge?

(Short pause.)

MR. VAIL: Your Honor, before we, I do want for the record just to ask that the court briefly reconsider its ruling based on the re-vestment argument made by the state, because we do not believe that the authority the state cited to supports the ability to do that. And I do have that case, and the factors -- and I can provide the court a copy of that case -- and the factors that the courts are to consider, one element of that is there first be agreement by both sides that the prior judgment or

conviction is to be vacated, and that's not present here.

So I would ask for the court -- and I can a present a copy of the authority they rely on to reconsider granting the motion as filed by the state on that legal basis.

THE COURT: I'm following the order of the federal district court in my ruling, as part of my ruling. Okay?

MR. VAIL: Yes, your Honor.

THE COURT: When do the parties want to appear there?

MR. VAIL: We would like to appear next week, [11]Wednesday morning -- again, to preserve the record, over objection on behalf of the petitioner.

THE COURT: All right.

The 12th? What about the defendant's custody status now? The conviction was vacated, basically, right?

MR. GOLDEN: Well, that's the question, Judge. Are you vacating the conviction?

THE COURT: I'm not --

MR. GOLDEN: Well, we're asking --

THE COURT: You asked me to re-vest jurisdiction and transfer it to the presiding judge for re-assignment. That's what I've done.

MR. GOLDEN: In the motion, Judge, we asked that the motion be entered and continued to re-vest, so that the judgment itself was not vacated until we resolve that issue. I believe that's what --

MR. VAIL: That's the issue, your Honor That's my complaint about what they're trying to do.

THE COURT: Okay.

MR. GOLDEN: If your Honor is inclined to, or over that objection, or to vacate the judgment, then we would need to set bond and he would be remanded to the county sheriff. Because IDOC won't take him without a valid [12]judgment.

THE COURT: Right.

MR. VAIL: And your Honor, I apologize if I did not articulate that well enough during my argument that that is our very objection with what the state is proposing. If what the state would be proposing is as in the ordinary course, the prior conviction is vacated and this is assigned to a judge to preside over this case so that the retrial proceedings go forward as Judge Durkin ordered, we are not objecting to that. That is what we've asked the state to do.

Now, preserving all rights to the defenses and any other arguments we might make in front of that judge, we believe that that is the only appropriate

way for the state to go forward at this point now that the case is here.

THE COURT: To vacate the judgment and basically start all over again?

MR. VAIL: Yeah, 120 days start to run on the speedy trial, we get discovery, we have a judge presiding over the case. They're asking that it be held in abeyance.

THE COURT: How does holding it in abeyance comply with the order --

[13]MR. GOLDEN: -- trying to thread a needle, Judge, where we would be able to preserve our rights to Supreme Court review. After the Supreme Court has ordered the defendant to file a brief in opposition, which that order came after the defendant had said that we are not going to do it, Judge.

If your Honor disagrees with our position, then we'll vacate the judgment, and we'd ask for a bond hearing, and the case will be set over,

THE COURT: Well, if the judgment is not vacated I don't know why you're sending, how is it retrial proceedings being started then?

MR. GOLDEN: I understand your Honor's position.

THE COURT: You want retrial proceedings to be started, don't you?

MR. GOLDEN: Yes, Judge.

THE COURT: Okay.

The conviction is vacated pursuant to the order of the Federal District, Federal Appellate Court, and the matter will be transferred again then to the presiding judge, District 6, for re-assignment.

MR. GOLDEN: I believe, Judge, we need to set a bond now.

THE COURT: Yes.

[14]The defendant is going to be remanded to the Cook County Department of Corrections, officers. So we'll give you some paperwork for that.

What's your proffer with regard to the facts for purposes of bond?

MR. GOLDEN: The evidence of the first trial would show that on September 22, 1999, at approximately 8:30 p.m., the defendant was in the area of 15860 Dixie Highway, Markham, Illinois. At that time he saw the 17-year-old victim, Ramone [sic] Nelson on a bicycle. The defendant was armed with a baseball bat. He came up behind Ramone [sic] Nelson, struck him in the head approximately five times causing his death.

The defendant was identified by two separate eyewitnesses.

Bond -- the initial bond hearing was set at no bail.

At the time of this offense the defendant was on probation under 98 CR 28203. Two years of probation was entered on 2-24-99 for delivery of a controlled substance.

We ask that the no bail be reinstated, your Honor.

THE COURT: Counsel?

[15]MR. VAIL: Briefly, your Honor, to initially address the state's underlying case against Mr. Owens. As you've heard today, this is a case upon which, at which the 7th Circuit, a panel led by Judge Posner, threw out the conviction, threw out the conviction based on the failure of the trial judge to convict based on adequate evidence.

In fact, Judge Posner in his opinion has some very critical things to say about the state's case and the witnesses that were presented at that case. The case was solely two eyewitnesses who purported to identify Mr. Owens in dubious circumstances.

One of the witnesses I believe testified that he was providing that testimony in exchange for a deal from the state. Either he or the other eyewitness had problems making a consistent identification of Mr. Owens as the alleged offender.

So as a first matter, I'd say that the case as commented by Judge Posner appears to be very

weak, and therefore that that is one factor that should lead to a reduced or no bail for Mr. Owens who's been sitting in custody for close to 16 years on a conviction that the 7th Circuit held to be unconstitutional.

Mr. Owens obviously since he's been [16]incarcerated since that time for this crime has not in that time been out on the streets committing any other offenses.

For those reasons and -- if I could have one moment?

THE COURT: Sure.

(Short pause.)

MR. VAIL: And your Honor, Mr. Owens informs me if he was able to make bail, he would be able to live with his aunt in Country Club Hills.

THE COURT: Right now the court is setting a bond at $500,000 D, subject to review when it gets to the trial court, or whatever happens over there.

If other facts come to your attention or circumstances change, you'll know what to do in that regard.

The date will be August 12th. I'm going to set a time, I think 10:00 o'clock may be a good time for the parties to be before Judge Laws. When you get to that, the Markham courthouse, I'd go to her location

and they will be able to direct you where this may be held or heard at that time.

MR. VAIL: Yes, your Honor.

THE COURT: Remand to Cook County Department of [17]Corrections.

Anything else today?

MR. GOLDEN: No, Judge.

MR. VAIL: No, your Honor.

THE COURT: Okay.

The matter of Larry Owens is adjourned.

(Which were all the all the proceedings had in the above-entitled cause on said date.)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS CRIMINAL DIVISION/MUNICIPAL DEPARTMENT-DISTRICT

PEOPLE OF THE STATE OF ILLINOIS	)	No:	99CR2528701
	)	SID	029500660
vs	)		
	)	IR	0868896
LARRY OWENS	)		

ADDENDUM TO PREVIOUS ORDER SETTING BAIL AND COMMITTING THE DEFENDANT TO THE COOK COUNTY DEPARTMENT OF CORRECTIONS FOR FAILURE TO DEPOSIT BAIL.

ORDER

THIS MATTER COMING BEFORE THE COURT AND THE COURT BEING FULLY ADVISED IN THE PREMISES, IT IS HEREBY ORDERED:

NEXT COURT DATE: 08/12/2015

MURDER
DEF REMANDED TO CCDOC
BOND SET AT $500,000 (D)
TRANSFER TO PRESIDING JUDGE DIST 6 FOR REASSIGNMENT

DISPOSITION(S) MUST REFLECT WHICH COUNT(S) THE ORDERS(S) IS/ARE APPLICABLE

ENTERED AUGUST 04, 2015

DEPUTY CLERK /s/ V. Wimberly

V

Wimberly

VERIFIED BY _____

/s/ Joseph G. Kazmierski, Jr.
Judge Kazmierski, Joseph G. Jr. 1629

ROOM 101
ROOM/BRANCH
AT 0930 AM

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT OF COOK COUNTY

GCPJ 08/04/15 15:46:28
CCCR N707

COURT FILE

Sheet #	Defendant Sheet #	CRIMINAL DISPOSITION SHEET	Branch/Room/Location	CLERK USE ONLY
0136	0001 OF 0001		1701 101 PAUL J. [Illegible], JR [illegible] MARKHAM	0136

CASE NUMBER	DEFENDANT NAME	ATTORNEY	COURT DATE	COURT CALL/TIME
99CR2528701	OWENS LARRY		08-04-2015	[Illegible] –0930 AM

CB/DON #	IR #	EM	BOND #	I	C	D	BOND AMOUNT
L12861019	0868896						

CHARGES	* IN CUSTODY 06/12/09 *	COURT ORDER ENTERED	Misc.	CODES

[Illegible]
MURDER/INTENT TO KILL/[ILLEGIBLE]

[Illegible]
MURDER/[ILLEGIBLE]/INJUR

[Illegible] jurisdiction allowed

[Illegible] vacated

Transfer [Illegible] to presiding judge

Div 6 for reassignment Record of
[illegible] CCDOC

Bond [Illegible] $500,000 D

BA 8/12/15 [Illegible]

JUDGE:
/s/ [Illegibe]

JUDGE'S No.

RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY [ILLEGIBLE]